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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service*

7 CFR Part 54

[No. LS-93-003]

RIN 0581-AA91

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the grading and certification of meats, prepared meats, and meat products by increasing the hourly fee rate for voluntary Federal meat grading and acceptance services. The hourly fees will be adjusted by this final rule to reflect the increased cost of providing service and ensure that the Federal meat grading program is operated on a financially self-supporting basis as required by law.

EFFECTIVE DATE: The final rule is effective September 19, 1993.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification Branch, 202/720-1246.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This final rule was reviewed under the USDA procedures established to implement Executive Order 12291 and was classified as a nonmajor, final rule pursuant to section 1(b) (1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis is not required.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies that do not conflict with this rule. It is not intended to have a retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Effect on Small Entities

This action was reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), wherein the Administrator of the Agricultural Marketing Service determined that this final rule will not have a significant economic impact on a substantial number of small entities. The changes in the hourly fee rates are necessary to recover the costs of providing voluntary Federal meat grading and acceptance services. The program has significantly increased the use of office automation equipment which, when combined with administrative document reductions, have helped maintain operating efficiency.

Additionally, the program is continuing to evaluate its field structure for additional cost savings. Consequently, the unit cost of meat grading and acceptance services to the industry remains approximately $0.0011 per pound.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act do not apply to this rulemaking as it does not require the collection of any information or data. However, recent program administrative changes will significantly reduce the number of billing documents sent to applicants, which should create substantial timesavings during their reconciliation process.

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and acceptance services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also provides for the collection of fees from users of Federal meat grading and acceptance services that are approximately equal to the cost of providing these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Employee salaries and benefits account for approximately 80 percent of the total budget. Revenue hours include base hours, premium hours, and service performed on Federal legal holidays. As program operating costs change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law. The program last changed the hourly fee rate structure in April of 1992.

In fiscal year 1993, the program experienced a congressionally mandated 3.7 percent salary increase for Federal employees effective January 10, 1993, a projected nonsalary, inflationary cost of 4.0 percent, and additional overhead costs of $30,000 to cover the program's share of unbudgeted administrative overhead. Together these cost increases are anticipated to total $452,000. Such costs are more than the program can absorb and remain viable. To control costs in fiscal year 1993, the program is: (1) Developing and implementing the Total Quality Management/Continuous Improvement Process philosophy into all Meat Grading and Certification (MGC) Branch activities, (2) reducing management costs by significantly increasing use of office automation equipment and changing certain administrative procedures which, when combined, are expected to reduce paperwork and the associated recordkeeping by approximately 60 percent, (3) continuing to evaluate field structure for ways to reduce operating overhead. Additionally, the program remains committed to increasing intermittent and cross-utilized personnel usage for less than full-time positions whenever practicable.

Uncontrollable costs thrust upon the program by such factors as governmentwide salary increases, inflation, changes in employee entitlements and additional administrative overhead costs will continue to create substantial operating deficits. Such operating deficits can only be balanced by adjusting the hourly fee-rate charged to users of the service. Any further reduction in personnel, services, or supervisory infrastructure beyond those already planned would have a detrimental effect on the program's ability to offer

uniform, nationwide meat grading and acceptance services.

Comments

On June 11, 1993, the Agency published in the **Federal Register** (58 FR 32616) a proposed rule to increase the fees for Federal meat grading and certification services. This proposed rule was published with requests for comments as a means of providing full public participation in the rulemaking process. Comments were requested by July 12, 1993. During the 30-day comment period, the Agency received one comment from an industry trade association.

Discussion of Comments

The commenter expressed concern over the necessity of our current fee increase. The commenter generally suggested that administrative and overhead costs be reduced and better controlled through greater efficiency and better use of existing program resources.

The Agency recognizes the need for and importance of providing efficient and cost-effective grading and certification services. The last four fee raises in June 1986, July 1989, May 1990, and April 1992, along with our current proposal, would equal an average annualized increase of 4.1 percent per year. Considering that inflation averaged approximately 4.1 percent each of the last 7 years, the Agency is providing a cost-effective service.

The commenter urged more progress be made in the areas of services, personnel staffing, and supervisory infrastructure to control costs.

The Agency continually reviews all areas of program operations to ensure that efficient and cost-effective service is maintained. Another method of evaluating the value of program services is to determine the average cost per pound of providing them. The program's average cost per pound for providing meat grading and certification services to the industry is approximately $.0011 per pound, which is very reasonable.

Concerning personnel staffing, the program, since the last fee increase in April 1992, achieved further staffing reductions primarily through attrition. However, in response to urgent needs in specific locations, the program hired five new qualified meat graders. By hiring in specific locations, the program was able to avoid the normal relocation costs associated with filling such vacancies and thereby achieved approximately $150,000 in relocation cost savings.

Concerning supervisory infrastructure, the completion of a major field reorganization will further reduce supervisory and management positions. The reorganization, which began in 1991 with the closure of one regional office, concludes this year with the closure of another and reduces the program to one regional office. This major reorganization will result in over $980,000 savings annually. Further, the program was able to collocate one area office with another program activity, which resulted in additional savings for the industry. Finally, the program continues to explore every available opportunity to cross-utilize other program personnel and use intermittent employees in order to offer the most cost-efficient service possible. Without the cost-cutting measures implemented by the program, fee increases much larger than those requested would have been necessary.

In view of the foregoing considerations, the Agency will increase the base hourly rate for commitment applicants for voluntary Federal meat grading and acceptance services from $34.00 to $35.20. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to the use of meat grading and acceptance services for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and acceptance services will increase from $36.40 to $37.60 and will be charged to applicants who utilize the service for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium hourly rate for all applicants will increase from $42.00 to $43.20, and will be charged to users of the service for the hours worked in excess of 8 hours per day, between the hours of 6 a.m. and 6 p.m., and for hours worked from 6 p.m. to 6 a.m., Monday through Friday, and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants will increase from $68.00 to $70.40, and will be charged to users of the service for all hours worked on legal holidays.

The Agricultural Marketing Act of 1946 requires that fees approximately cover the cost of services provided under the meat grading and certification program. The Agency is responsible for operating the meat grading and certification program in a prudent manner. Since January 11, 1993, when the government-wide salary and benefit increases became effective, the program's hourly fee rate has not been sufficient to recover the cost of providing such services. Therefore, the Agency must act to increase fees and reduce operating losses as soon as possible.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not delaying the effective action until 30 days after publication of this final rule in the **Federal Register**. Therefore, this final rule will be effective on September 19, 1993.

List of Subjects in 7 CFR Part 54

Food grades and standards, Food labeling, Meat and meat products.

Accordingly, 7 CFR part 54 is amended as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624).

§ 54.27 [Amended]

2. Section 54.27(a), the third sentence is amended by revising "$36.40" to read "$37.60", "$42.00 to read "$43.20", and "$68.00" to read "$70.40".

3. Section 54.27(b), the second sentence is amended by revising "$34.00" to read "$35.20", "$42.00 to read "$43.20", and "$68.00" to read "$70.40".

Dated: September 13, 1993.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 93–22763 Filed 9–16–93; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 932

[Docket No. FV93–932–1IFR]

Olives Grown in California; Establishment of Grade and Size Requirements for Olives Authorized for Limited Use Styles During the 1993–94 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes the use of smaller sized olives in the production of limited use styles during the 1993–94 crop year and establishes minimum grade and size

requirements for such olives in the order's rules and regulations. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles. This action will help the California olive industry meet the increasing market needs of the food service industry by making smaller olives available for use in the production of limited use styles and improve returns to growers. This action was unanimously recommended by the California Olive Committee (committee), which works with the Department of Agriculture (Department) in administering the marketing order program for olives grown in California.

DATES: This action becomes effective August 1, 1993. Comments which are received by October 18, 1993 will be considered prior to issuance of a final rule.

ADDRESSES: Written comments concerning this interim final rule should be submitted in triplicate to the Docket Clerk, F&V Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456; telephone (202) 720–8139, or, Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This interim final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 5 handlers of California olives will be subject to regulation under the order during the current season, and there are approximately 1,350 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. Most but not all of the olive producers may be classified as small entities. None of the olive handlers may be classified as small entities.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California with most of the commercial production coming from inland valleys. In 1990, about 77 percent of the production came from the San Joaquin Valley and 23 percent from the Sacramento Valley. California olives are primarily used for canned ripe whole and whole pitted olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. Very few shipments of California olives are exported.

Olive production has fluctuated from a low of 24,200 tons during the 1972–73 crop year to a high of 168,500 tons during the 1992–93 crop year. The committee indicated that 1991–92 production totalled about 63,260 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. Preliminary estimates of 1992–93 production total approximately 163,500 tons. It is too early to estimate 1993–94 production. However, based on past production and marketing experience, the committee believes that handlers will need smaller sized olives during the 1993–94 crop year to meet market requirements for limited use styles of canned olives for the 1993–94 year. Absent this action, olives which are smaller than those authorized for whole and whole pitted canning uses would have to be disposed of by handlers into non-canning uses such as crushing into oil.

Paragraph (a)(3) of § 932.52 of the order provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. Until October 1, 1991, paragraph (a)(3) also prescribed minimum sizes, by variety group, which could be authorized for use in the production of limited use styles by the Secretary.

Effective October 1, 1991, certain non-canning size disposition requirements specified in § 932.51(a)(3) and minimum sizes authorized for limited use specified in § 932.52(a)(3) of the marketing order were suspended. The committee may now recommend the use of olives for limited uses that are smaller than those previously permitted under the order. Minimum size and grade requirements may be recommended annually by the committee and approved by the Secretary. The sizes authorized herein are the same as those established for the 1992–93 crop year. The minimum sizes which could previously be authorized for limited uses were established in a

1971 amendment to the marketing order. Olives smaller than the prescribed minimum sizes which could be authorized for limited uses had to be disposed of for less profitable non-canning uses such as crushing for oil. Returns to producers are lower on smaller fruit used for such purposes. The use of smaller sized olives for limited use styles has been authorized in all but two crop years since the order was instituted in 1965.

Since the 1971 amendment, there have been substantial changes within the olive industry. In spite of the annual limited use authorization, in recent years the industry has not been able to meet market needs for its products, especially the limited use styles used primarily by the food service industry. The demand for processed olives and for limited use styles is expected to continue to increase. At the same time, the industry has not been able to increase production to meet market needs for canned ripe olives.

The committee conducted a study during the 1990–91 crop year to determine the feasibility of utilizing smaller sized olives in the production of limited use styles and to determine which sizes could be efficiently processed into such styles. All olive handlers within the industry participated in the study. All handlers reported that smaller sizes can be efficiently processed into limited use styles. Advanced technology in the form of better processing equipment is currently available. The new technology allows handlers to process smaller olives into limited use styles more efficiently than was possible in the past.

This action will help growers and handlers to meet the growing market requirements for limited use style olives based upon current conditions. The size requirements allow the use of sizes which would otherwise have to be disposed of for non-canning use. In turn, growers should receive a larger return from such olives.

By a mail ballot vote ending June 15, 1993, the committee unanimously recommended establishment of grade and size regulations during the 1993–94 crop year pursuant to paragraph (a)(3) of § 932.52 of the order. The grade requirements are the same as established in recent seasons. The specific sizes for the variety groups are the minimum sizes which are deemed desirable for use in the production of limited use styles at this time. As in past years, permitting the use of the smaller olives in the production of limited use styles allowed handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives. Handlers will be able to market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the available olive supplies and facilitate market expansion, thereby increasing returns to growers. In the absence of this action, the smaller fruit would have to be disposed of for less profitable, non-canning uses.

Section 8(e) of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for olives under a domestic marketing order, imported olives must meet the same or comparable requirements. This action allows smaller olives for limited use styles under the marketing order. Thus, a corresponding change is needed in the olive import regulation. Such a change will be addressed in a separate rulemaking action.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities and that the proposal will benefit both producers and handlers of California olives.

After consideration of all relevant matter presented, including information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This rule relieves handling requirements, and to be of maximum benefit for the 1993–94 crop year should be effective by August 1; (2) olive handlers are aware of this action which was unanimously recommended by the committee; (3) there is no special preparation required by affected handlers; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.153 is revised to read as follows:

[**Note:** This section will appear in the Code of Federal Regulations.]

§ 932.153 Establishment of grade and size requirements for processed 1993–94 crop year olives for limited uses.

(a) *Grade.* On and after August 1, 1993, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1993, and meet the grade requirements specified in paragraph (a)(1) of § 932.52 as modified by § 932.149.

(b) *Sizes.* On and after August 1, 1993, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1993, through July 31, 1994, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1993, or after July 31, 1994.

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh at least 1/105 pound: *Provided*, That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/105 pound.

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh at least 1/180 pound: *Provided*, That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh at least 1/205 pound: *Provided*, That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/205 pound.

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh at least 1/180 pound: *Provided*, That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

Dated: September 13, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–22700 Filed 9–16–93; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 944

[Docket No. FV93–944–1IFR]

Olives Imported Into the United States; Authorization to Import Smaller Sized Olives for Limited Uses and Establishment of Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes the importation of certain bulk olives into the United States to be used in the production of limited use styles of olives such as wedges, halves, slices, or segments. Such olives will not be required to meet the minimum size requirements established for olives used in the production of whole and whole pitted canned ripe olives. This rule establishes alternative minimum size requirements for such olives during the 1993–94 season. This rule also updates the Federal-State inspection office address list contained in the import regulation. This action is required under section 8e of the Agricultural Marketing Agreement Act of 1937 to bring the olive import regulation into conformity with the requirements established under the California olive marketing order.

DATES: This action becomes effective August 1, 1993. Comments which are received by October 18, 1993 will be considered before the issuance of any final rule.

ADDRESSES: Written comments concerning this rule should be submitted in triplicate to the Docket Clerk, F&V Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, or by faxogram at (202) 720–5698. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–8139, or Terry Vawter, California Marketing Field Office, Fruit and Vegetable division, AMS, USDA, 2202 Monterey Street, suite 102–B, Fresno, CA 93721, telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act, which provides that whenever certain specified commodities, including olives, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity.

This interim final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 25 importers of olives subject to the olive import regulation. Small agricultural service firms, which would include olive importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000. The majority of olive importers may be classified as small entities.

Canned ripe olives, and bulk olives for processing into canned ripe olives, imported into the United States must meet certain minimum grade and size requirements specified in *Olive Regulation 1* (7 CFR 944.401). All canned ripe olives are required to be inspected and certified prior to importation (release from custody of the United States Custom Service), and all bulk olives for processing into canned ripe olives must be inspected and certified prior to canning. "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of two distinct types, "ripe" and "green-ripe", as defined in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR 52.3751–52.3764). The term does not include Spanish-style green olives. Any lot of olives failing to meet the import requirements may be exported or disposed of under the supervision of the Processed Products Branch of the Fruit and Vegetable Division, with the costs of certifying the disposal of the olives borne by the importer. Any person may import up to 100 pounds (drained weight) of canned ripe olives or bulk olives exempt from these grade and size requirements.

This interim final rule modifies paragraph (b)(12) of the olive import regulation (7 CFR 944.401(b)(12)) to authorize the importation of bulk olives which do not meet the minimum size requirements established for olives for whole and whole pitted uses to be used in the production of limited use styles for the 1993–94 season which begins August 1, 1993. This rule also establishes size regulations for such olives in paragraph (b)(12).

Import regulations issued under the Act are based on regulations established under Federal marketing orders to regulate domestically produced products. The grade and size requirements contained in the olive import regulation are based on those in effect for olives grown in California under Marketing Order No. 932. This action reflects a recommendation by the California Olive Committee (committee) to change the requirements for olives for limited use styles grown in California. The committee works with the Department in administering the marketing order program for California olives.

Paragraph (a)(3) of § 932.52 of the California olive marketing order provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories by variety groups. This is to recognize the different sizing characteristics of the individual varieties and types of California olives. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles.

By a mail ballot ending on June 15, 1993, the committee unanimously recommended to authorize establishment of minimum sizes for use in the production of limited use styles during the 1993–94 season. These minimum sizes would be the same as those established for the 1992–93 season. The sizes are specified in terms of minimum weights for individual olives in various variety groups and are the same for both domestic and imported olives. An extra category is continued in the import regulation to apply comparable requirements for varieties not grown domestically. The minimum sizes are as follows:

Variety Group I, except the Ascolano, Barouni, or St. Agostino varieties	1/105 pound
Variety Group I of the Ascolano, Barouni, or St. Agostino varieties	1/180 pound
Variety Group 2, except the Obliza variety	1/205 pound
Variety Group 2 of the Obliza variety	1/180 pound
Olives not identifiable as to variety or variety group	1/205 pound

Each of the categories includes a 35 percent tolerance for olives weighing less than the specified minimum size.

This action is necessary because section 8e of the Act provides that when domestically produced olives are regulated under a Federal marketing order, imported olives must meet the same or comparable grade, size, quality, and maturity requirements. Thus, authorizing the use of smaller sized California olives in the production of limited use styles and establishing size regulations for such olives requires that the same or comparable regulations be issued for imported bulk olives. Domestic requirements for California olives are being revised in a separate rulemaking action.

Permitting the use of smaller olives in the production of limited use styles will allow importers to take better advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives. Importers will be able to import and market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the available olive supply and facilitate market expansion. In the absence of this action, the smaller fruit could not be imported for limited uses, and would have to be disposed of for less profitable, non-canning uses under the supervision of the inspection service or exported.

A change in paragraph (c) to be implemented indefinitely, updates the list of regional inspection offices listed in the import regulation. The change reflects consolidation of the Southeastern and Central offices into the Eastern Regional Office and the relocation of the Western Regional Office.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information available it is found that this action, as set forth below, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to implementing this action, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This relaxation provides importers the opportunity to import additional supplies of olives to meet market needs for limited use styles; (2) no useful purpose would be served by providing preliminary notice before implementation; and (3) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 944.401 is amended by revising paragraph (b)(12) and by amending paragraph (c) by revising the office and telephone listing and address to read as follows:

[**Note:** This section will appear in the Code of Federal Regulations.]

§ 944.401 Olive Regulation 1.

* * * * *

(b) * * *

(12) Imported bulk olives when used in the production of canned ripe olives must be inspected and certified as prescribed in this section. Imported bulk olives which do not meet the applicable minimum size requirements specified in paragraphs (b)(2) through (b)(11) of this section may be imported during the period August 1, 1993, through July 31, 1994, for limited use, but any such olives so used shall not be smaller than the following applicable minimum size:

(i) Whole ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/105 pound (4.3 grams) each.

(ii) Whole ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(iii) Whole ripe olives of Variety Group 2, except the Obliza variety, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/205 pound (2.2 grams) each.

(iv) Whole ripe olives of Variety Group 2 of the Obliza variety of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(v) Whole ripe olives not identifiable as to variety or variety group of size that not more than 35 percent of olives, by count, may be smaller than 1/205 pound (2.2 grams) each.

(c) * * *

Office and Telephone

Eastern Regional Office, 800 Roosevelt Road, Building A, suite 380, Glen Ellyn, IL 60137, (708) 790–6937, 6938, or 6939;

Western Regional Office, 2202 Monterey Street, suite 102–C, Fresno, CA 93721, (209) 487–5891.

Application for inspection of processed bulk olives shall be made not less than 3 days prior to use in the production of canned ripe olive. Such application shall be made through the following office:

Western Regional Office, 2202 Monterey Street, suite 102–C, Fresno, CA 93721, (209) 487–5891.

* * * * *

Dated: September 13, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–22699 Filed 9–16–93; 8:45 am]

BILLING CODE 3410–02–P

RAILROAD RETIREMENT BOARD

20 CFR Part 360

RIN 3220–AB00

Employee Responsibilities and Conduct

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby removes regulations on "Employee Responsibilities and Conduct," because those provisions are now obsolete.

EFFECTIVE DATE: This regulation is effective September 17, 1993.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4945, TDD (312) 751–4201.

SUPPLEMENTARY INFORMATION: Part 360 of the Board's regulations contains regulations promulgated pursuant to the Ethics in Government Act of 1978 and the implementing regulations issued by the Office of Personnel Management (OPM). Subsequent events have rendered part 360 obsolete. Effective October 1, 1989, the Office of Government Ethics (OGE), which had previously been a part of OPM, was given separate agency status. The Ethics Reform Act of 1989 (Pub. L. 101–194, as amended) amended the Ethics in Government Act of 1978. Pursuant to the 1989 Act, as amended, OGE is the "supervising ethics office" for the executive branch. Additionally, Executive Order 12731 of October 17, 1990, directed OGE to promulgate a single, comprehensive set of standards of ethical conduct for executive branch employees.

OGE has issued regulations governing executive branch employees on all of the subject areas covered in part 360. More specifically, Subpart A of part 360 deals with Executive Personnel Financial Disclosure Requirements. On April 7, 1992 (57 FR 11800), OGE issued comprehensive executive branch financial disclosure regulations which are now codified at 5 CFR part 2634. Subpart B of part 360 deals with Employee Standards of Conduct. On August 7, 1992, OGE published new Standards of Ethical Conduct for Employees of the Executive Branch (57 FR 35006) which became effective February 3, 1993 and are now codified at 5 CFR part 2635. The regulations in part 2635 supersede individual agency regulations governing employee standards of conduct. Finally, subpart C of part 360 deals with Post-Employment Conflict of Interest. More comprehensive regulations implementing the Government-wide post-employment statute, 18 U.S.C. 207, are codified at 5 CFR parts 2637 and 2641.

Because this rule simply removes regulations which are now clearly out of date, public comment was not considered necessary and, thus, this rule was not published in proposed form.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 360

Conflict of interests, Government employees.

PART 360—EMPLOYEE RESPONSIBILITIES AND CONDUCT [REMOVED AND RESERVED]

For the reasons set out in the preamble, part 360 of subchapter F of chapter II of title 20 of the Code of Federal Regulations, consisting of subparts A, B, and C, is hereby removed and reserved.

Dated: September 10, 1993.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–22808 Filed 9–16–93; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

Industry and Small Business Participation; Notice of Public Meetings on Nutrition Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: The Food and Drug Administration (FDA) is announcing three forthcoming meetings for industry and small business on the rules for implementing the Nutrition Labeling and Education Act of 1990 (the NLEA) that FDA issued in January of 1993.

DATES: The meetings will be held on Monday, September 20, 1993, 8 a.m. to 12 p. m. in Burlingame, CA; Wednesday, September 22, 1993, 8 a.m. to 12 p. m. in Arlington Heights, IL; and Thursday, September 23, 1993, 1 p.m. to 5 p.m. in Philadelphia, PA.

ADDRESSES: The meetings will be held at the following locations:

September 20, 1993: Holiday Inn Crowne Plaza, San Francisco Airport, 600 Airport Way, Burlingame, CA.

September 22, 1993: Woodfield Hilton, Euclid Ave. and Rohling Rd., Arlington Heights, IL.

September 23, 1993: Social Security Auditorium, 3d and Spring Garden Sts., Philadelphia, PA.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Office of Small Business, Scientific and Trade Affairs (HF–51), Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857, 301–443–6776.

For Pacific Regional Registration Information: Mark Roh, Pacific Region, Small Business Assistance Program, Food and Drug Administration, Federal Office Bldg., rm. 526, United Nations Plaza, San Francisco, CA 94102, 415–556–2263 or FAX 415–556–2822.

For Mid-West Regional Registration Information: Joe L. Petty, Mid-West Region, Small Business Assistance Program, Food and Drug Administration, 20 North Michigan Ave., rm. 550, Chicago, IL, 312–353–9400; or

For Mid-Atlantic Regional Registration Information: Theresa A. Holmes, Mid-Atlantic Region, Office of Public Affairs, Food and Drug Administration, United States Customhouse, 2d and Chestnut Sts., Philadelphia, PA 19106, 215–597–0837.

There will be seating limitations and advance registration is required. Registration should include the name, firm name, address, and telephone number of all attendees. There is no registration fee for this meeting.

SUPPLEMENTARY INFORMATION: FDA holds industry enchange meetings to disseminate information on timely issues and to get industry's views on these issues. The meetings announced in this notice have been organized by FDA's Office of the Commissioner, the Office of Regulatory Affairs, the Center for Food Safety and Applied Nutrition, and the Office of Small Business, Scientific and Trade Affairs. The purpose of these meetings is to answer the food industry's questions on the regulations that FDA issued in January implementing the NLEA (Pub. L. 101-535).

Dated: September 14, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–22818 Filed 9–14–93; 3:53 pm]

BILLING CODE 4160–01–F

21 CFR Part 172

[Docket No. 93F–0015]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of aspartame as a sweetener in frostings, toppings, fillings, glazes, and icings for precooled baked goods. This action is in response to a petition filed by Regu-Tech Associates, Inc.

DATES: Effective September 17, 1993; written objections and requests for a hearing by October 18, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Owen Fields, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9523.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 12, 1993 (58 FR 13604), FDA announced that a food additive petition (FAP 3A4355) had been filed by Regu-Tech Associates, Inc., 158 West Boston Post Rd., Mamaroneck, NY 10543–3605. The petition proposed that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the safe use of aspartame as a sweetener in frostings, toppings, fillings, glazes, and icings for precooled baked goods.

Having evaluated data in the petition and other relevant material, the agency concludes that the proposed use of the food additive is safe, and that the regulations should be amended as set forth below. Because the new uses, as proposed by the petitioner, include the previously regulated use in § 172.804(c)(18), which allows the use of aspartame in fillings of prebaked cookies, FDA is revising § 172.804(c)(18) to permit the additional uses authorized by this order.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before October 18, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 is revised to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 379e).

2. Section 172.804 is amended by revising paragraph (c)(18) to read as follows:

§ 172.804 Aspartame.

* * * * *

(c) * * *

(18) Frostings, toppings, fillings, glazes, and icings for precooled baked goods.

* * * * *

Dated: September 9, 1993.

Catherine W. Carnevale,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–22679 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 177

[Docket No. 91F–0066]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an ultra-filtration membrane consisting of a zirconium oxide membrane containing up to 5 percent yttrium oxide on a porous aluminum oxide support, for use in food processing. This action responds to a petition filed by ALCOA Separations Technology, Inc., Aluminum Co. of America.

DATES: Effective September 17, 1993; written objections and requests for a hearing by October 18, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 15, 1991 (56 FR 11223), FDA announced that a food additive petition (FAP 1B4254) had been filed by ALCOA Separations Technology, Inc., Aluminum Co. of America proposing that § 177.2910 *Ultra-filtration membranes* (21 CFR 177.2910) be amended to provide for the safe use of an ultra-filtration membrane consisting of a zirconium oxide membrane containing up to 5 percent yttrium oxide on a porous aluminum oxide support, for use in food processing. Because of a change in ownership, the current petitioner is Membralox Products Group, U.S. Filter Corp., 181 Thorn Hill Rd., Warrendale, PA 15086–7527.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of the food additive is safe. Thus, the agency concludes that 21 CFR 177.2910 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before October 18, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 is revised to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.2910 is amended by revising the introductory text and by adding new paragraph (a)(3) to read as follows:

§ 177.2910 Ultra-filtration membranes.

Ultra-filtration membranes identified in paragraphs (a)(1), (a)(2), and (a)(3) of this section may be safely used in the processing of food, under the following prescribed conditions:

(a) * * *

(3) Ultra-filtration membranes that consist of an aluminum oxide support that is coated with zirconium oxide (CAS Reg. No. 1314–23–4) containing up to 5 percent yttrium oxide (CAS Reg. No. 1314–36–9).

* * * * *

Dated: September 8, 1993.

Catherine W. Carnevale,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–22680 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 821

[Docket No. 91N–0296]

Medical Devices; Device Tracking; Extension of the Comment Periods

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; extension of comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending to October 15, 1993, the comment periods provided by two final rules that published in the **Federal Register** of August 16, 1993. The documents are entitled: "Medical Devices; Device Tracking; Opportunity for Comments" and "Medical Devices; Illustrative and Designated Lists for Device Tracking." FDA is taking this action in response to a request for extensions of both comment periods.

DATES: Written comments by October 15, 1993.

ADDRESSES: Submit 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: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4765.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 16, 1993 (58 FR 43442), FDA issued a final rule entitled "Medical Devices; Device Tracking; Opportunity for Comments" announcing that the revised proposed rule became the final rule on November 29, 1992, and provided the opportunity for interested parties to comment on this final rule by September 15, 1993. In a separate document entitled "Medical Devices; Device Tracking" FDA suspended the effective date of the final rule on device tracking until August 29, 1993, and made other technical corrections (58 FR 43442).

FDA issued another final rule in the **Federal Register** of August 16, 1993 (58 FR 43451), entitled, "Medical Devices; Illustrative and Designated Devices for Device Tracking," that further amended the tracking regulations by adding devices to the lists of tracked devices contained in the regulation. FDA solicited comments on this rule by September 15, 1993.

FDA has received a request from a device manufacturer's association for 60-day extensions of the comment periods for these two final rules so that the association's membership will have

sufficient time to consider and comment on them. FDA agrees in part with the request and is extending both comment periods for 30 days. Accordingly, the comment periods for these final rules are extended to October 15, 1993. However, the medical device tracking final rule became effective on August 29, 1993, and this extension of the comment period does not affect the obligation of manufacturers to have tracking systems in place.

Interested persons may on or before October 15, 1993, submit to the Dockets Management Branch (address above) written comments regarding these final rules. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 14, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–22819 Filed 9–14–93; 3:53 pm]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2606 and 2617

Rules for Administrative Review of Agency Decisions; Standard Terminations of Single-Employer Plans; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule; correction.

SUMMARY: This document corrects the interim rule published Tuesday, August 24, 1993 (58 FR 44738), which amended the PBGC's regulations governing administrative review of agency decisions and standard terminations of single-employer plans to provide for modification of certain of the deadlines in those regulations in the event of a major disaster. This action is needed to correct certain errors.

EFFECTIVE DATE: August 24, 1993.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Renae R. Hubbard, Special Counsel, Office of the General Counsel (Code 22000), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850 (202–778–1958 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The interim rule that is the subject of these corrections amended parts 2606 and 2617 of the PBGC's regulations, Rules for Administrative Review of Agency Decisions and Standard Terminations of Single-Employer Plans, to provide disaster victims with relief from certain deadlines imposed by these regulations.

As published, the proposed rule contains certain errors which are in need of correction. Accordingly, the publication on August 24, 1993 of the interim rule, which was the subject of FR Doc. 93–20600, is corrected as follows:

1. On page 44738, in the third column, in the nineteenth line of the second paragraph, after "notice" insert ", or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is in such an area".

2. On page 44739, in the second column, in the first line, after "sponsor" insert ", or the office of the service provider, bank, insurance company, or other person maintaining the necessary records,".

3. On page 44739, in the second column, in the sixteenth line of the fourth full paragraph, after "relieving" insert "aggrieved persons of".

§ 2606.4 [Corrected]

4. On page 4470, in the first column, in § 2606.4(b)(1), in the fifth line, after "area" insert ", or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within a designated disaster area".

§ 2617.25 [Corrected]

5. On page 44470, in the second column, in § 2617.25(a) (2) (i), in the sixth line, after "administrator" insert ", or the office of the service provider, bank, insurance company, or other person maintaining the information necessary to issue the notices of plan benefits required by § 2617.23 or to file the standard termination notice required by this section,".

§ 2617.28 [Corrected]

6. On page 44740, in the third column, in § 2617.28(f)(4)(i), in the sixth line, after "administrator" insert ", or the office of the service provider, bank, insurance company, or other person maintaining the information necessary to complete the distribution of plan assets,".

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–22806 Filed 9–16–93; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Final rule; approval of proposed amendment.

SUMMARY: OSM is announcing its decision to approve, with certain exceptions and additional requirements, a proposed amendment to the Utah permanent regulatory program (Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists primarily of changes to provisions of the Utah program pertaining to backfilling and grading performance standards and the reclamation of highwalls. The amendment is primarily intended to clarify the Utah regulations regarding highwall retention under the Utah approximate original contour alternative, and add regulations regarding highwall retention at underground mines that have operated continuously from before the effective date of SMCRA to the present.

EFFECTIVE DATE: September 17, 1993.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette NW., suite 1200, Albuquerque, NM 87102; Telephone (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program.
II. Submission of Proposed Amendment.
III. Director's Findings.
IV. Summary and Disposition of Comments.
V. Director's Decision.
VI. Effect of Director's Decision.
VII. Procedural Determinations.

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program for the regulation of coal exploration and coal mining and reclamation operations on non-Federal

and non-Indian lands. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and an explanation of the conditions of approval, is in the January 21, 1981, **Federal Register** (46 FR 5899). Actions taken subsequent to approval of the Utah program are codified at 30 CFR 944.15, 944.16, and 944.30.

II. Submission of Proposed Amendment

By letter dated April 30, 1992 (administrative record No. UT–758), Utah submitted to OSM a proposed amendment to the Utah program pursuant to SMCRA, 30 U.S.C. 1201–1328, and the Federal regulations at 30 CFR Chapter VII (the Federal regulations). Utah submitted the proposed amendment in response to a January 9, 1991, letter that OSM sent to Utah in accordance with 30 CFR 732.17(c) (administrative record No. UT–607). The provisions of the Utah Coal Mining Rules that Utah proposed to amend are: Utah Administrative Rule (Utah Admin. R.) 645–100–200, definition of "highwall;" Utah Admin. R. 645–301–553, 553.100 and 130, backfilling and grading; Utah Admin. R. 645–301–553.210 and 220, spoil and waste; Utah Admin. R. 645–301–553.260, refuse piles; Utah Admin. R. 645–301–553.510, 520, and 521, previously mined areas; and Utah Admin. R. 645–301–553.620 through 655, approximate original contour (AOC).

OSM published a notice in the June 2, 1992, **Federal Register** (57 FR 23181), announcing receipt of the amendment and inviting public comment on its adequacy (administrative record No. UT–767). The public comment period closed July 2, 1992.

During its review of the amendment, OSM identified concerns regarding Utah Admin. R. 645–301–553.130, regrading requirements and the static safety factor for retained highwalls; Utah Admin. R. 645–301–553.510, 520, and 521, backfilling and grading of previously mined areas; Utah Admin. R. 645–301–553.650, highwall retention criteria; and Utah Admin. R. 645–301–553.651, allowable height and length standards for retained highwalls. OSM notified Utah of the concerns by letter dated September 10, 1992 (administrative record No. UT–779).

By letter dated September 30, 1992, Utah responded by submitting additional explanatory information and a revised amendment (administrative record No. UT–788). Utah proposed to revise Utah Admin. R. 645–301–553.130 and 523, requirements for highwall and highwall remnant stability and demonstrations by the operator of stability and safety; Utah Admin. R. 645–301–553.510, 520, and 521, backfilling and grading of previously mined areas; and Utah Admin. R. 645–301–553.650 and 652, AOC highwall retention criteria.

OSM announced receipt of the revised amendment in the December 9, 1992, **Federal Register** (57 FR 58171), and, in the same notice, reopened and extended the public comment period and provided opportunity for a public hearing on the adequacy of the amendment considering the additional materials submitted (administrative record No. UT–807). The comment period closed December 24, 1992.

III. Director's Findings

After a thorough review, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds, with certain exceptions and additional requirements, that the proposed amendment as submitted by Utah on April 30, 1992, and as revised by it on September 30, 1992, is not inconsistent with SMCRA and the Federal regulations.

1. Nonsubstantive Revisions to Utah's Regulations

Utah's proposed revisions to the following previously-approved regulations are nonsubstantive in nature and consist of minor editorial, punctuation, and codification changes. Corresponding Federal provisions, if any exist, are listed in parentheses:

Utah Admin. R. 645–100–200 (30 CFR 701.5), definition of "highwall;"

Utah Admin. R. 645–301–553.100 (30 CFR 816.102(a)), backfilling and grading of disturbed areas;

Utah Admin. R. 645–301–553.130 (30 CFR 816.102(a)(3)), 1.3 static safety factor;

Utah Admin. R. 645–301–553.620 (30 CFR 816.102(k)(3)(iii)), incomplete elimination of highwalls in previously mined areas;

Utah Admin. R. 645–301–553.630 and .631 (30 CFR 816.102(k)(3) and (k)(3)(i)), required regulatory authority approval for mountaintop removal operations;

Utah Admin. R. 645–301–553.632 and .633 (30 CFR 816.102(k)(1) and (2)), AOC variance criteria; and

Utah Admin. R. 645–301–553.655, exemption from obtaining a variance from AOC requirements.

The proposed revisions to these previously-approved Utah regulations are nonsubstantive in nature, and the Director finds that these proposed Utah regulations are not inconsistent with SMCRA and the Federal regulations. The Director approves these proposed rules.

2. Utah Admin. R. 645–301–553, Placement of Material in Road and Portal Pad Embankments Located on the Downslope

Utah proposes to delete the phrase "[f]or the purposes of underground coal mining and reclamation activities" from existing Utah Admin. R. 645–301–553, which allows the placement of material in road and portal pad embankments on the downslope as long as (1) the material used and the embankment design comply with Utah Admin. R. 645–301–500 through 700 (Utah's engineering, geology, and hydrology performance standards), and (2) and the material is moved and placed in a controlled manner. The effect of this proposed deletion is that this rule would now allow surface as well as underground mining operations to place material in road and portal pad embankments located on the downslope as long as the applicable Utah engineering, geology, and hydrology performance standards are met, and the material is moved and placed in a controlled manner.

There is no current Federal counterpart provision to this State provision. However, prior to a Federal rulemaking action on May 24, 1983 (48 FR 23356), that took effect on June 23, 1983, the Federal regulations did contain a provision at former 30 CFR 826.12(a)(2) pertaining to operations on steep slopes. Former 30 CFR 826.12(a)(2) was substantively similar to proposed Utah Admin. R. 645–301–553 to the extent that it also allowed the placement of material in road embankments located on the downslope, as long as the material used and embankment design complied with the requirements of 30 CFR 816.150 through 816.180 or 817.150 through 817.180, and the material was moved and placed in a controlled manner.

Former 30 CFR 826.12(a)(2) was promulgated as part of the permanent program regulations on March 13, 1979 (44 FR 14902, 15454) to respond to comments received by OSM on the proposed permanent program regulations, which were published on September 18, 1978 (43 FR 41662, 41925). Specifically, certain commenters were concerned the language originally proposed at 30 CFR 826.12(a), which prohibited the placement of spoil, waste materials, or debris on the downslope in steep-slope areas, would prohibit the construction of access and haul roads into permit areas because spoil could not be placed on the downslope, and road fills could not be constructed. Stating that it agreed that haul roads are essential for access

to the mine area, OSM added the language at former 30 CFR 826.12(a)(2) to clarify that 30 CFR 826.12(a)(1) (originally proposed as 30 CFR 826.12(a)) did not prohibit the construction of access and haul roads (44 FR 14902, 15290–15291, March 13, 1979).

On May 24, 1983 (48 FR 23356), OSM promulgated a final rule that, among other things, moved the prohibitions of former 30 CFR 826.12(a)(1) to 30 CFR 816.107(b) for surface mining activities and to 30 CFR 817.107(b) for underground mining activities. In the same rulemaking action, OSM deleted former 30 CFR 826.12(a)(2) from the regulations. OSM provided its rationale for deleting former 30 CFR 826.12(a)(2) in the proposed rule published on June 21, 1982 (47 FR 26754). OSM reasoned that the provision was not necessary and could be removed from the rules because roads are structures, and the prohibitions of former 30 CFR 826.12(a)(1) (current 30 CFR 816.107(b) and 817.107(b)) concern only such materials as spoil and debris (47 FR 26754, 26765, June 21, 1982). In other words, the former 30 CFR 826.12(a)(2) was not necessary because the prohibitions of former 30 CFR 826.12(a)(1) (current 30 CFR 816.107(b) and 817.107(b)) were never meant to prohibit the construction of access and haul roads.

The Director finds that Utah's proposed revision to Utah Admin. R. 645–301–553 is not inconsistent with the rationale OSM set forth in the above-cited rulemaking regarding the deletion of former 30 CFR 826.12(a)(2) (47 FR 26754, 26765, June 21, 1982). The Director interprets the State provision at proposed Utah Admin. R. 645–301–553 in a manner consistent with the rationale set forth in this former rulemaking. That is, the Director interprets the State provision as merely clarifying that nothing in the approved Utah State program, including Utah Admin. R. 645–302–234.200 (counterpart provision to former 30 CFR 826.12(a)(1), current 30 CFR 816.107(b) and 817.107(b)), prohibits the construction of access and haul roads.

The Director notes that the State provision at proposed Utah Admin. R. 645–301–553 differs from the former Federal regulation at 30 CFR 826.12(a)(2) in two respects. However, neither of these differences makes the proposed rule less stringent than SMCRA or less effective than the Federal regulations. The first difference is that the State provision, unlike the former Federal provision, applies to placement of material not only in road embankments, but also in portal pad embankments located on the downslope. In a final rule Federal Register notice dated December 13, 1982, the Secretary previously approved Utah's portal pad embankment provision included in the current proposed rule as being consistent with former 30 CFR 826.12(a) (47 FR 55672, 55674). The second difference is that the State provision, unlike the former Federal provision, is not limited to steep-slope mining areas. Utah's regulation of nonsteep-slope mining areas is not inconsistent with 30 CFR 816.107(b) and 817.107(b) or any other Federal regulations.

Based upon the interpretation and analysis above, the Director interprets the State provision to mean that nothing in the Utah regulations, either at Utah Admin. R. 645–302–234.200 or at Utah Admin. R. 645–301–553, is meant to prohibit the construction of access and haul roads or the construction of portal pads, either in steep-slope, or in nonsteep-slope areas, as long as the material is moved and placed in a controlled manner and applicable performance standards are met. On this basis, the Director (1) finds that proposed Utah Admin. R. 645–301–553 is not inconsistent with the Federal regulations and (2) approves the proposed rule.

3. Proposed Amendment Provisions Dealing With Exceptions to SMCRA's Requirement for the Elimination of all Highwalls

(A) Background Information

(1) *SMCRA's requirement to eliminate highwalls.* Section 515(b)(3) of SMCRA requires that all mined land be backfilled and graded and returned to AOC. Section 515(b)(3) also expressly requires that to achieve AOC, all highwalls must be eliminated. The statutory requirement to eliminate all highwalls is implemented in the Federal regulations at 30 CFR 816.102(a)(2) and 817.102(a)(2). The legislative history of SMCRA reveals that "the elimination of highwalls [and the] return of the land to [AOC] * * * are among the standards critical to the elimination of the worst effects of coal surface mining." *In re Permanent Surface Min. Regulation Litigation*, 620 F. Supp. 1519, 1573 (D.D.C. 1985) (*quoting* H.R. Rep. No. 218, 95th Cong., 1st Sess. 85 (1977), U.S. Code Cong. & Admin. News, 1977, 621).

The following excerpts from the legislative history are informative:

> The Senate amendment provided a variance to the [AOC] and backfilling highwalls completely for a wide range of post mining land uses. In addition, if "sound engineering technology" indicated that the highwall could not be completely backfilled, then the operator would have been required to reduce the highwall to the maximum extent consistent with "sound engineering technology" and develop a revegetation plan that is "reasonably calculated" to screen the remaining highwall within 5 years. H.R. 2 included no such provision.
>
> Conferees agreed on a modified variance to the [AOC] standard which requires that *all highwalls are to be completely backfilled in every instance.* * * * Conferees did not adopt the "sound engineering technology" provision of S. 7.
>
> H.R. Rep. No. 95–493, 95th Cong., 1st Sess. 108–109 (1977) (emphasis added).
>
> H.R. 25 required the elimination of "depressions" and this language, which was a holdover from a very early draft of the bill, causes some confusion. *What is crucial is the elimination of (1) highwalls, and (2) spoil piles in all cases, with no exceptions.*
>
> H.R. Rep. No. 94–1445, 94th Cong., 1st Sess. 8, n. 3 (1976) (emphasis added).

Numerous court decisions have also emphasized the importance of highwall elimination to SMCRA's regulatory scheme. *See e.g. National Wildlife Federation* v. *Lujan*, 733 F. Supp. 419 (D.D.C. 1990); *In re Permanent Surface Mining Litigation*, 620 F. Supp. 1519 (D.D.C. 1985); *In re Permanent Surface Mining Regulation Litigation*, 21 ERC 1193 (D.D.C. 1984). *See also River Processing, Inc.*, 76 IBLA 129 (1983), *aff'd. River Processing, Inc.* v. *Clark*, No. 83–316 (E.D. Ky. May 2, 1985); *Grafton Coal Co., Inc.*, 3 IBSMA 175, 88 I.D. 613 (1981); *Tollage Creek Elkhorn Mining Co.*, 2 IBSMA 341, 87 I.D. 570 (1980).

(2) *Exceptions to SMCRA's requirement for elimination of all highwalls.* There are three specific exceptions to SMCRA's requirement for elimination of all highwalls that have been recognized by OSM, either in the Federal regulations or in State programs. Those three exceptions are referred to in this document as (1) previously mined areas; (2) continuously mined areas; and (3) the AOC alternative.

(a) *Previously mined areas.* The only exception to SMCRA's requirement for complete elimination of all highwalls allowed under the Federal regulations concerns remining operations on previously mined areas. See 30 CFR 816.106, 817.106, and 819.19. The approved Utah program also allows an exception to the requirement for complete elimination of all highwalls for previously mined areas. See Utah Admin. R. 645–301–553.500.

(b) *Continuously mined areas.* Although the Federal regulations do not contain a counterpart provision, OSM has previously approved in certain State programs another exception to the requirement to eliminate all highwalls,

the exception for continuously mined areas. This exception applies only to pre-SMCRA underground mines that have operated continuously from before the effective date of SMCRA (August 3, 1977) to the present. OSM has previously approved such exceptions for the States of Kentucky and West Virginia. Utah now proposes to add this type of an exception to their State program. The proposed Utah exception for continuously mined areas is discussed in detail below at finding No. 3(B).

(c) *AOC alternative to highwall elimination (AOC alternative).* OSM has also recognized a third exception to the requirement to eliminate all highwalls, the AOC alternative. In addition to Utah, the only other State to allow this alternative is New Mexico (45 FR 86459, December 31, 1980). The Utah AOC alternative is found at Utah Admin. R. 645–301–553.650. In this amendment, Utah proposes to modify this alternative. The current proposals regarding the Utah AOC alternative are discussed in detail below at finding No. 3(C).

(B) Utah Admin. R. 645–301–553.510, .520, and .521, Continuously Mined Areas

At Utah Admin. R. 645–301–553.510, 520, and 521, Utah proposes an exception from the requirement for complete highwall elimination for underground mining operations that created highwalls prior to August 3, 1977, the effective date of SMCRA, and continued operations thereafter where the volume of all reasonably available spoil is demonstrated in writing to the Utah Division of Oil, Gas and Mining (Division) to be insufficient to completely backfill the reaffected or enlarged highwall. Under these amended provisions, such highwalls would have to be eliminated to the maximum extent technically practical using all reasonably available spoil.

The Federal backfilling and grading regulations at 30 CFR 817.106(a), (b), and (b)(1) allow an exception from the requirement for complete highwall elimination for underground mining operations that remine highwalls in previously mined areas, which means land affected by surface coal mining operations prior to August 3, 1977, the effective date of SMCRA, that have not been reclaimed to the standards of SMCRA. See 58 FR 3466 (January 8, 1993). These regulations allow for the incomplete elimination of such highwalls where the volume of all reasonably available spoil is insufficient to completely backfill the reaffected or enlarged highwall.

Utah's proposed rules differ from the Federal regulations in that Utah proposes to extend the exception for incomplete highwall elimination to underground mining operations where the highwall was created prior to August 3, 1977, but continued to be used thereafter.

The Director has approved similar proposed regulations for Kentucky and West Virginia (52 FR 49398, 49399, December 31, 1987; 56 FR 21304, 21330–21331, May 23, 1990). Utah's proposed rules and Kentucky's and West Virginia's approved rules address the situation of operators attempting to reclaim face-up entry areas that were created prior to the passage of SMCRA. Many of these face-up entry areas have been in existence for many years and the earthen material necessary to eliminate the face-up entry is either no longer available or has been completely revegetated and its handling and use would cause new environmental damage and disruption. This problem is unique to underground mines where highwall areas do not move with the coal removal operations (as with surface mines) but exist in a static state for many years. The problem is not encountered in surface mines where post-SMCRA operations are continually creating new highwalls rather than extracting coal from pre-SMCRA highwall areas.

In passing SMCRA, Congress addressed the surface impacts of underground mining and surface extraction of coal in a generally similar manner, but it did provide for important differences. In section 516 of SMCRA, Congress affirmatively established certain performance standards applicable to underground mines and incorporated by reference other performance standards at section 515. One of the performance standards incorporated by reference, section 515(b)(3), requires highwall elimination. However, section 516(b)(10) also charges that the Secretary shall make such modifications in the requirements imposed by this subparagraph as are necessary to accommodate the distinct difference between surface and underground coal mining.

For the Kentucky and West Virginia provisions, the Director exercised his authority as the Secretary's designee to consider these distinct differences between surface and underground mines and approved them. The Director reasoned that the provisions provided equitable treatment for pre-SMCRA mines that have operated continuously since before the effective date of SMCRA. They also afford the same variance from AOC requirements as is provided in 30 CFR 817.106 for remining sites where operation of a pre-SMCRA mine has been interrupted and mining was begun again at the sites after the effective date of SMCRA.

For the same reasons discussed above for the Kentucky and West Virginia proposed rules, the Director finds that Utah's proposed rules at Utah Admin. R. 645–301–553.510, .520, and .521 are not inconsistent with the Federal regulations at 30 CFR 817.106(a), (b), and (b)(1) or any other requirements of the Federal regulations or SMCRA, insofar as they apply to underground mining operations that operated prior to August 3, 1977, and have continuously operated since that time. On this basis, the Director approves the proposed rules. However, with respect to continuously mined areas, the Director wishes to emphasize that the exception to the requirement to completely eliminate all highwalls should, like the similar exception for previously mined areas, be narrowly construed and should ensure that the highwall is removed to the maximum extent technically practical. See 48 FR 41720, 41729 (September 16, 1983). Thus, for example, where an underground mining operation has been continuously mined since before the effective date of SMCRA (August 3, 1977) and contains both pre- and post-SMCRA face-up or portal areas, this exception must be understood as applying *only* to the pre-SMCRA face-up areas. Any post-SMCRA portal areas within the same mining operation must comply with the requirement to completely eliminate all highwalls. The Director interprets Utah's proposed exception for continuously mined areas in this limited fashion.

(C) Utah Admin. R. 645–301–553.650, AOC Alternative to Highwall Elimination (AOC Alternative)

The Utah AOC alternative to SMCRA's requirement for the complete elimination of all highwalls was approved by the Secretary of the Interior on December 13, 1982 (47 FR 55672, 55673). Prior to December 13, 1982, Utah had submitted two earlier proposals for an AOC alternative, both of which were rejected by OSM. See 45 FR 70481, 70485–70486 (October 24, 1980) and 46 FR 5899, 5901–5902 (January 21, 1981). In the rulemakings concerning the Utah AOC alternative, OSM made it clear that such an alternative was allowable only where unique topographic conditions existed that caused a conflict between SMCRA's requirement for achieving AOC and the requirement for the complete elimination of all highwalls. OSM

reasoned that while SMCRA repeatedly and consistently requires the elimination of highwalls, it also requires the mined area to be restored to AOC. Thus, when certain unique topographic conditions exist, such as when the area to be mined has natural cliff-type features, these apparently contradictory statutory requirements must be harmonized in a reasonable manner. OSM repeatedly emphasized that the AOC alternative must be treated as a carefully limited exception to SMCRA's requirement to eliminate highwalls. The proposed amendments to Utah's AOC alternative are discussed in detail below.

(1) Requirement for regulatory authority approval of the AOC alternative. Existing Utah Admin. R. 645–301–553.650 requires an operator to obtain Utah's approval for any highwalls that the operator wishes to retain in the postmining landscape. Utah proposes to revise Utah Admin. R. 645–301–553.650 to indicate that a retained highwall will be considered to be consistent with AOC requirements and will not require a variance from the AOC requirements where the operator establishes that the highwall is in compliance with the highwall retention criteria at Utah Admin. R. 645–301–553.651 through .655. Whereas the existing rule requires the operator to obtain Utah's approval of any highwalls proposed to be retained, the revised rule would only require the operator to "establish" that the retained highwall meets the criteria of Utah Admin. R. 645–301–553.651 through 655.

Although there are no Federal regulations that directly correspond to Utah's proposed rules, there are certain Federal regulations that are analogous in that they address procedures for AOC determinations by the regulatory authority. For instance, the Federal regulations at 30 CFR 816.102(k)(3)(ii) and 817.102(k)(1) allow a postmining slope to vary from AOC if approval is obtained from the regulatory authority in accordance with 30 CFR 785.16. These Federal regulations differ from Utah's proposed rule in that the Federal regulations address a variance from AOC while Utah's proposed rule addresses a variance from the requirement to eliminate highwalls. However, these Federal regulations are pertinent in that they set forth a process that the regulatory authority is required to follow in making AOC determinations.

While proposed Utah Admin. R. 645–301–553.650 would require an operator to establish that a highwall could be retained because it would be in compliance with Utah's AOC alternative requirements, the proposed rule does not explicitly state that the operator would submit this documentation to Utah, and Utah would make a written decision on it. Moreover, there is at least one criterion which an operator must establish before obtaining approval to retain a highwall under the AOC alternative that is not specifically included in proposed Utah Admin. R. 645–301–553.650. That criterion is the stability requirement at proposed Utah Admin. R. 645–301–553.523 (discussed in further detail in finding No. 3(D) below).

The analogous Federal regulations at 30 CFR 816.102(k)(3)(ii) and 817.102(k)(1) explicitly require operators to obtain the regulatory authority's approval for determinations relating to AOC. Because Utah's proposed rule at Utah Admin. R. 645–301–553.650 does not explicitly require operators to obtain Utah's approval of retained highwalls, the Director finds that the proposed rule is inconsistent with the Federal regulations at 30 CFR 816.102(k)(3)(ii) and 817.102(k)(1). The Director does not approve proposed Utah Admin. R. 645–301–553.650 and requires Utah to revise it to require that, prior to obtaining Utah's approval for highwalls to be retained, the operator must establish and Utah must find in writing that any proposed highwall will comply with the AOC criteria at Utah Admin. R. 645–301–553.651 through 655 and the stability requirement at Utah Admin. R. 645–301–553.523.

(2) Utah Admin. R. 645–301–553.651, height and length requirements of retained highwalls. At Utah Admin. R. 645–301–553.651, Utah proposes that in order for a retained highwall to be considered to be consistent with AOC, the highwall cannot be significantly greater in length than any natural cliff-like escarpments removed or physically altered by the mining process and cannot be significantly greater in height than existing cliffs in the surrounding area.

Utah's proposed rule sets a standard for the length of a retained highwall that is based upon the length of natural cliffs or escarpments that are disturbed by the mining operation. This differs from Utah's proposed highwall height standard that is based upon the height of undisturbed cliffs or escarpments in the surrounding area.

The length component of proposed Utah Admin. R. 645–301–553.651 is not inconsistent with section 515(b)(3) of SMCRA, which requires mining operations to restore the land to AOC. However, the height component of proposed Utah Admin. R. 645–301–553.651 is inconsistent with the assumptions upon which the Secretary previously based his approval of Utah's AOC alternative. Although the term "surrounding area" is unchanged from the existing rule that the Secretary approved as part of the Utah AOC alternative, it is clear from the preamble discussions of the existing rule that the Secretary approved Utah's AOC alternative only for those cases where the retained highwall actually resulted in AOC (45 FR 70481, 70485–70486, October 24, 1980; and 46 FR 5899, 5901–5902, January 21, 1981). Proposed Utah Admin. R. 645–301–553.651 would allow retained highwalls to have heights that were not necessarily comparable with those of cliffs or escarpments that were replaced or disturbed by the mining operations. Because the proposed rule would allow the retention of highwalls that were significantly greater in height than those replaced or disturbed by the mining operations, it would result in a condition that was not AOC. This is not in accordance with the approved Utah AOC alternative and is less stringent than section 515(b)(3) of SMCRA, which requires mining operations to restore the land to AOC.

For these reasons, the Director finds that proposed Utah Admin. R. 645–301–553.651 is not in accordance with the Secretary's approval of the Utah AOC alternative and is less stringent than section 515(b)(3) of SMCRA. The Director does not approve the proposed rule because it would allow the height of retained highwalls to be based upon the height of undisturbed cliffs or cliff-like escarpments in the surrounding area, rather than the height of cliffs or cliff-like escarpments that were replaced or disturbed by the mining operations. The Director requires Utah to submit a proposed amendment for highwall retention and AOC at Utah Admin. R. 645–301–553.651 restricting the height of retained highwalls to the height of cliffs or cliff-like escarpments that were replaced or disturbed by the mining operations.

(3) *Utah Admin. R. 645–301–553.652, replacement of a preexisting cliff or similar natural premining feature with a retained highwall, and date of applicability of these rules.* At Utah Admin. R. 645–301–553.652, Utah proposes that in order for a retained highwall to be consistent with AOC requirements, the retained highwall must replace a preexisting cliff or similar natural premining feature and resemble the structure, composition, and function of the natural cliff it replaces or enhances.

As discussed in finding No. 4(b)(i) of the October 24, 1980, **Federal Register**

(45 FR 70481, 70486), the Secretary found in his decision on Utah's originally proposed AOC alternative that the mandate of section 515(b)(3) of SMCRA to restore the land to AOC with all highwalls eliminated contains an inherent contradiction when it is applied to specific areas of Utah with its natural benches and steep topography. In such terrain, the elimination of highwalls would not restore the land to AOC, since the original contour was a natural cliff that was similar in its contour to highwall. The Secretary decided to harmonize these apparently contradictory requirements by approving the Utah AOC alternative as a carefully limited exception to SMCRA's requirement for highwall elimination for the above-described situations. See 45 FR 70481, 70485–70486 (October 24, 1980); 46 FR 5899, 5901–5902 (January 21, 1981); 47 FR 55672, 55673 (December 13, 1982).

After the Secretary's approval of the Utah AOC alternative, the Utah Board of Oil, Gas and Mining interpreted the AOC alternative to allow the retention of highwalls when no similar natural features existed in the disturbed area prior to mining. On January 9, 1991, OSM sent a letter to Utah in accordance with 30 CFR 732.17 notifying Utah that the Board's interpretation was inconsistent with the assumptions upon which the Secretary based his approval of the Utah AOC alternative. OSM stated:

> Since the Utah rule as interpreted by the Board no longer meets Federal requirements, the State program must be amended to restore consistency with SMCRA. Specifically, the State must require that all highwalls created or affected by a mining operation be eliminated except to the extent that they qualify for the remining exemption or replace natural features of a similar nature. Any residual highwalls must closely resemble natural premining features in size, form and function.
>
> Also, in the February 12, 1990, decision in *NWF* v. *Lujan*, the U.S. District Court for the District of Columbia ruled that regulations which contradict a statutory provision cannot be considered as being of any effect for any portion of the time they existed (Mem. Op. at 35–42). Therefore, since highwall elimination is a fundamental requirement of SMCRA, the amendment must include a provision stating that its requirements apply to all highwalls created or affected after [August 3, 1977,] the effective date of SMCRA.

Therefore, in this 30 CFR part 732 notification, OSM addressed the requirements for Utah (1) to submit a State program amendment that allowed highwalls to be retained pursuant to the Utah AOC alternative only when they replaced natural features of a similar nature and closely resembled natural premining features in size, form, and function, and (2) to make such highwall retention requirements applicable to all highwalls created or reaffected after August 3, 1977. OSM addresses those two requirements separately below.

(a) *Replacement of a preexisting cliff or similar natural premining feature with a retained highwall.* The Director finds that proposed Utah Admin. R. 645–301–553.652, which allows highwalls to be retained only if they replace a preexisting cliff or similar natural premining feature, is in accordance with the Secretary's approval of the Utah AOC alternative and section 515(b)(3) of SMCRA, which requires operators to restore the AOC of the land.

(b) *Applicability date.* On November 6 and 7, 1991, Utah met with OSM and discussed this highwall retention issue (administrative record No. UT–693). In response to the 30 CFR part 732 letter, Utah on April 30, 1992, submitted the proposed amendment to the highwall retention and reclamation rules at Utah Admin. R. 645–100–200 and 645–103–553. through 553.655 that are the subject of this **Federal Register** notice. In accordance with its interpretation of discussions at the November 6 and 7, 1991, meeting, Utah proposed that it would not apply the proposed rules requiring the backfilling and grading of highwalls to mine sites or structures for which reclamation had been initiated prior to the date Utah's proposed rules are put into effect.

On September 10, 1992, OSM sent to Utah an issue letter for this proposed amendment in which it reconsidered its position for the date of applicability of Utah's proposed highwall retention and reclamation rules. OSM stated that incomplete highwall elimination by Utah mining operations would be allowed pursuant to the currently approved Utah AOC alternative only if prior to June 2, 1992, the date of OSM's proposed rule **Federal Register** notice for the amendment, final backfilling and grading was completed and the bond was released under phase I requirements in accordance with the State counterpart of section 519(c)(1) of SMCRA.

On September 30, 1992, Utah resubmitted the proposed highwall retention amendment and indicated only that it had "taken note" of OSM's comments regarding the applicability date for the proposed rules.

Although OSM has seriously considered the alternate applicability dates discussed in the November 6 and 7, 1991, meeting and the September 10, 1992, issue letter, it now, after further review and analysis, reaffirms, with clarification and slight modification, its original position for an applicability date of August 3, 1977, as stated in the January 9, 1991, 30 CFR part 732 letter to Utah. OSM believes that August 3, 1977, is the appropriate applicability date, as was stated in the January 9, 1991, letter. However, since the Utah program did not contain an approved AOC alternative prior to December 13, 1982 (47 FR 55672, 55673), the applicability date for proposed Utah Admin. R. 645–301–553.652, which explicitly limits the Utah AOC alternative, cannot be any earlier than that date. Accordingly, OSM is requiring that the added provision at Utah Admin. R. 645–301–553.652 have an applicability date of December 13, 1982. The applicability date of Utah Admin. R. 645–301–553.652 is the same as the applicability date of the AOC alternative itself and the requirements of Utah Admin. R. 645–301–553.652 must apply to any highwall retained pursuant to the Utah AOC alternative.

Prior to December 13, 1982, the Utah program did not contain an approved AOC alternative. Therefore, no such alternative to the requirement to completely eliminate all highwalls was available to Utah operators prior to December 13, 1982. Accordingly, unless a particular highwall qualified for the Utah exception for remining operations on previously mined areas (currently at Utah Admin. R. 645–301–553.500), the approved Utah program required the elimination of all highwalls between the dates of August 3, 1977, and December 13, 1982.

The Director believes that an applicability date of December 13, 1982, for proposed Utah Admin. R. 645–301–553.652 is not only allowed by, but is mandated by SMCRA. As discussed in finding No. 3(A) above, SMCRA's requirement for the elimination of all highwalls was deemed by Congress to be one of the law's most essential environmental protection performance standards. Accordingly, any exception from this requirement must be carefully limited in scope. The Utah AOC alternative that OSM approved on December 13, 1982, was approved based upon that understanding.

The Director does not believe that this determination regarding the applicability date of December 13, 1982, constitutes retroactive rulemaking because the requirements of Utah Admin. R. 645–301–553.652, if not explicitly stated in the Utah program prior to submission of this amendment, were implicitly part of the Utah program since the time the Utah AOC alternative was first approved by OSM. As

discussed in finding Nos. 3(A) and 3(C) above, OSM has consistently maintained that this AOC alternative is limited to circumstances where SMCRA's AOC requirement is actually in conflict with SMCRA's requirement to eliminate all highwalls. Obviously, that situation does not arise unless the disturbed area contains premining features that resemble cliffs or highwalls. If the premining topography of a mine does not contain such features, then the AOE alternative has no application. An operator who fails to completely eliminate a highwall under such circumstances violates both SMCRA's AOE requirement and its requirement to eliminate all highwalls. Any applicability date of proposed Utah Admin. R. 645–301–553.652 subsequent to December 13, 1982, would allow Utah operators to violate two of SMCRA's most essential environmental protection performance standards.

Even if this decision regarding the applicability date of Utah Admin. R. 645–301–553.652 could be construed to be retroactive rulemaking, it is in accordance with case law regarding retroactivity. See e.g. *Bradley* v. *Richmond School Board*, 416 U.S. 696, 94 S.Ct. 2006, 40 L.Ed.2d 476 (1974). *See also Bowen* v. *Georgetown University Hosp.*, 488 U.S. 204, 109 S.Ct. 468, 102 L.Ed.2d 493 (1988). By explicitly requiring that a retained highwall replace a preexisting cliff or similar premining feature and resemble the structure, composition, and function of the natural cliff it replaces, proposed Utah Admin. R. 645–301–553.652 does nothing more than clarify what was always a necessary precondition before a Utah operator could take advantage of the Utah AOC alternative previously approved by OSM. Accordingly, the present amendment is distinguishable from the regulation at issue in *United States* v. *Shelton Coal Corp.*, 647 F. Supp. 264 (W.D. Va. 1986), *Aff'd.* 829 F.2d 1336 (4th Cir. 1987), where the court found that an OSM regulation could not be applied retroactively because it constituted a change in settled law. Instead, the present amendment is more like the regulation at issue in *United States* v. *Lambert Coal Co.*, 649 F. Supp. 1470 (W.D. Va. 1986), *aff'd* 28 ERC 1871 (4th Cir. 1988), where the court found that retroactive application of an OSM regulation was permissible "because the new regulation [did] not overrule or change the prior regulations." *United States* v. *Lambert Coal Co.*, 649 F. Supp. at 1474.

For these reasons, the Director finds that Utah's proposal to not apply proposed Utah Admin. R. 645–301–553.652 to the approved Utah AOC alternative until it is put into effect in the Utah program is inconsistent with the basis of the Secretary's approval of the Utah AOC alternative and is less stringent than section 515 of SMCRA. Therefore, the Director does not approve Utah's applicability date for its proposed rule at Utah Admin. R. 645–301–553.652. With regard to proposed Utah Admin. R. 645–301–553.652, the requirements of OSM's January 9, 1991, 30 CFR Part 732 letter still stand. Thus, the Director will interpret the Utah provision at Utah Admin. R. 645–301–553.652 as having an applicability date of December 13, 1982. In addition, the Director requires Utah to submit an amendment stating that the requirement at proposed Utah Admin. R. 645–301–553.652 has an applicability date of December 13, 1982, and applies to any highwall retained pursuant to the AOC alternative.

(4) *Utah Admin. R. 645–301–553.653, modifications to retained highwalls restoring cliff-type habitats required by premining flora and fauna.* At Utah Admin. R. 645–301–553.653, Utah proposes to require that a retained highwall will be considered to be consistent with AOC where the operator establishes, in addition to other requirements, that the retained highwall is modified if necessary to restore cliff-type habitats required by the flora and the fauna existing prior to mining.

The additional criteria at proposed Utah Admin. R. 645–301–553.653 for obtaining approval of an AOC alternative to SMCRA's requirement to eliminate highwalls provide clarity for Utah's program.

There are no direct counterparts to proposed Utah Admin. R. 645–301–553.653 in the Federal regulations or SMCRA. The Director finds that this proposed rule is not inconsistent with the Federal permanent program performance standards for surface and underground mining activities at 30 CFR Parts 816 and 817, which set forth backfilling and grading requirements for both surface and underground mining operations; with section 515(b)(2) of SMCRA, which requires operators to restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses; and with section 515(b)(3) of SMCRA, which requires operators to restore the AOC of the land. The Director approves Utah's proposed rule.

(5) *Utah Admin. R. 645–301–553.654, compatibility of retained highwalls with the approved postmining land use and visual attributes of the area.* At newly-created Utah Admin. R. 645–301–553.654, Utah proposes to require that a retained highwall will be considered to be consistent with AOC where the operator establishes that the retained highwall is compatible with both the visual attributes of the area and the approved postmining land use.

The visual attribute requirement exists at Utah Admin. R. 645–301–553.652, and Utah proposes to delete it there and incorporate it at new Utah Admin. R. 645–301–553.654. The Secretary approved this requirement on December 13, 1982 (47 FR 55672), as part of Utah's AOC alternative.

The proposed requirement that the retained highwall be compatible with the approved postmining land use has a general counterpart in the Federal regulations at 30 CFR 784.15, which addresses operator reclamation plans and compatibility of reclaimed lands for postmining land uses. Also, section 515(b)(2) of SMCRA requires that affected lands be restored to a condition capable of supporting the uses that it was capable of supporting prior to mining, or higher or better uses, and section 515(b)(3) requires backfilling and grading operations to achieve an ecologically sound land use compatible with the surrounding region.

The Director finds that proposed Utah Admin. R. 645–301–553.654 is not inconsistent with the Federal regulations at 30 CFR 784.15 and sections 515(b) (2) and (3) of SMCRA. The Director approves Utah's proposed rule.

(D) Utah Admin. R. 645–301–553.500 and .523, Highwalls in General; 1.3 Static Safety Factor and Alternative Stability Criteria

At Utah Admin. R. 645–301–553.523, Utah proposes to require that any operator wishing to leave in the postmining landscape a highwall remnant or a retained highwall, whether in connection with a previously mined area, a continuously mined area, or the AOC alternative, must demonstrate to the Division that the highwall remnant or retained highwall would not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and prevent slides. Under the proposed rule, an operator could, in lieu of the 1.3 static safety factor and slide prevention criterion, propose an alternative stability criterion for the Division's approval that would demonstrate that the highwall remnant or retained highwall is stable and does not pose a hazard to the public health and safety.

The Federal regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3) require that disturbed areas be backfilled and

graded to achieve a postmining slope that does not exceed either the angle of respose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides. The Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) require that any highwall remnant on a remined area shall be stable and not pose a hazard to the public health and safety or to the environment. These regulations also require the operator to demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable. Stability requirements are especially important in steep-slope areas where instability can create very serious environmental and public health and safety problems. *See* 44 FR 14902, 15291 (March 13, 1979).

With three exceptions, proposed Utah Admin. R. 645–301–553.500 and .523 have requirements that are consistent with the Federal regulations at 30 CFR 816.102(a)(3), 817.102(a)(3), 816.106(b)(3), and 817.106(b)(3).

The first exception is that Utah titles section Utah Admin. R. 645–301–553.500 as "[p]reviously mined areas" even though subsection Utah Admin. R. 645–301–553.523 addresses highwall remnants or retained highwalls in connection with continuously mined areas and the AOC alternative, as well as highwalls in connection with previously mined areas. The Director finds that Utah's proposed Utah Admin. R. 645–301–553.523 is less effective than the Federal regulations at 30 CFR 816.106 and 817.106 in the respect that the title for proposed Utah Admin. R. 645–301–553.500 is inconsistent with the content of proposed Utah Admin. R. 645–301–553.523 and could cause misinterpretation of the latter rule. In addition, as applied to the AOC alternative, since the stability criteria are placed in a separate section, it is not clear that such criteria specifically apply to highwalls retained in accordance with the AOC alternative.

The second exception is that proposed Utah Admin. R. 645–301–553.523, with respect to any alternative highwall stability criterion proposed by an operator and approved by Utah, requires that a highwall remnant or retained highwall be stable and not pose a hazard to the public health and safety. The Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) require that, in addition to the public health and safety, the highwall remnant or retained highwall must not pose a hazard to the environment. The Director finds that Utah's proposed Utah Admin. R. 645–301–553.523 is less effective than the Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) in the respect that it would allow Utah to approve alternative stability criteria that could pose a hazard to the environment.

The third exception for proposed Utah Admin. R. 645–301–553.523 is that an operator deciding not to propose to Utah an alternative highwall stability criterion must ensure any highwall remnant or retained highwall does not exceed the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and prevent slides. Utah's inclusion of the phrase "angle of repose" is inappropriate in this context. As generally defined, the phrase "angle of repose" applies only to loose unconsolidated materials. See A Dictionary of Mining, Mineral, and Related Terms, U.S. Department of the Interior, Bureau of Mines (1968). Therefore, unless the geologic strata exposed in the highwall face are composed of such materials, the phrase has no relevance in the context of a highwall remnant or retained highwall. The Director finds that Utah Admin. R. 645–301–553.523 is less effective than the Federal regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3) in the respect that the phrase "not to exceed either the angle of repose or such lesser slope as is necessary to" confuses the rule's meaning and could cause misinterpretation of the rule.

In addition, the Director emphasizes that, in all cases, the Federal regulations at 30 CFR 816.102(a)(3) and 817.102(a)(3) require the backfill material at the base or against a highwall to have a minimum long-term static safety factor of 1.3 and prevent slides. The Director recognizes that a highwall remnant extending above the backfill material does not have to achieve the 1.3 minimum long-term static safety factor. However, the Federal regulations at 30 CFR 816.106(b)(3) and 817.106(b)(3) require (1) that any highwall remnant be stable and not pose a hazard to the public health and safety or to the environment and (2) that an operator demonstrate to the satisfaction of the regulatory authority that the highwall remnant is stable.

At Utah Admin. R. 645–301–553.523, Utah uses both the terms "highwall remnant" and "retained highwall" with respect to the applicability of an alternative stability criterion. While Utah does not define the term "retained highwall" in its rules, it does define the term "highwall remnant" as meaning "[t]hat portion of highwall that remains after backfilling and grading of a remaining permit area." Utah's definition of "highwall remnant" is identical to the Federal definition at 30 CFR 701.5. Therefore, the Director interprets Utah's proposed term "retained highwall" to be analogous to the term "highwall remnant" and understands that any alternative stability criterion proposed by an operator to Utah will apply only to that portion of highwall that remains after backfilling and grading, and not the backfill material at the base of or against the highwall.

Provided the terms "highwall remnant" and "retained highwall" are interpreted in this analogous fashion with respect to an alternative stability criterion, the Director finds proposed Utah Admin. R. 645–301–552.523 to be no less effective than the Federal regulations at 30 CFR 816.102(a)(3), 817.102(a)(3), 816,106(b)(3), and 817.106(b)(3).

For the reasons discussed above, the Director does not approve proposed Utah Admin. R. 645–301–553.500 and .523 and requires Utah to (1) eliminate the inconsistency between the title "previously mined areas" at Utah Admin. R. 645–301–553.500 and the content of subsection Utah Admin. R. 645–301–553.523, which addresses not only highwall remnants in areas that were previously mined, but also highwall remnants and retained highwalls in connection with continuously mined areas and the AOC alternative, and to otherwise amend their program to clarify that the stability criteria of proposed Utah Admin. R. 645–301–553.523 apply to the AOC alternative at Utah Admin. R. 645–301–553.650, (2) revise Utah Admin. R. 645–301–553–523 to specify that, in addition to the public health and safety, the highwall remnant or retained highwall must not pose a hazard to the environment, and (3) revise Utah Admin. R. 645–301–553.523 to delete the phrase "not to exceed either the angle of repose or such lesser slope as is necessary to."

IV. Summary and Disposition of Comments

1. Public Comments

In response to the request for public comments, OSM received one comment on the portion of the proposed Utah amendment dealing with an exception for continuously mined areas to the requirement to completely eliminate highwalls. The commenter supported this portion of the amendment and urged OSM to approve it.

The commenter cited two decisions of the United States District Court for the District of Columbia as holding that SMCRA's provisions, and, specifically, SMCRA's grading and highwall

elimination requirements, cannot be applied retroactively. The commenter further cited two decisions of the Interior Board of Surface Mining and Reclamation Appeals for the same proposition.

The commenter also stated that the proposed amendment was in accordance with congressional direction, as set forth in section 516(a) of SMCRA, 30 U.S.C. 1266(a), to consider the distinct differences between surface and underground coal mining operations when promulgating rules and regulations directed toward the surface effects of underground mining operations.

The commenter further stated that section 516(b)(2) of SMCRA, 30 U.S.C. 1266(b)(2), provides a distinct and separate requirement for face-up areas, which requires only that an operator seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of mining operations.

Finally, the commenter stated that OSM has approved similar provisions in West Virginia, Kentucky, and Virginia. As addressed in finding No. 3(B) above, the Director has found that this portion of the Utah amendment is not inconsistent with the SMCRA or the Federal regulations. While the Director is approving this portion of the Utah amendment, he disagrees with certain arguments raised by the commenter. Set forth below are the Director's responses to each of the commenter's arguments.

The commenter stated that section 516(b)(2) of SMCRA, 30 U.S.C. 1266(b)(2), provides a distinct and separate requirement for face-up areas and requires only that an operator seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of mining operations. The commenter's suggestion that an operator need only comply with section 516(b)(2) of SMCRA to meet SMCRA's environmental protection performance standards for face-up areas is incorrect. Subsection (b)(10) of the same section of SMCRA makes clear that the environmental performance standards established under section 515 must be met by underground operators, in addition to the performance standards set forth at section 516. One of the many performance standards established by section 515 is the requirement for complete elimination of highwalls. See section 515(b)(3). Moreover, the elimination of highwalls was one of the standards Congress felt was critical to the elimination of the worst effects of coal mining. See e.g., *National Wildlife Federation* v. *Lujan*, 733 F. Supp. 419, 442 (D.D.C. 1990).

The commenter cited the decision of the United States District Court for the District of Columbia in *In Re: Surface Mining Litigation*, 452 F. Supp. 327, 339 (D.D.C. 1978) as holding that "absent an explicit and unmistakable command to the contrary, SMCRA's statutory provisions cannot be applied retroactively." The Director disagrees with the commenter's interpretation of this case. The decision involved a section of the interim program regulations unrelated to the issue of highwall retention, 30 CFR 710.11, dealing with design criteria for pre-existing structures and facilities. The court did not require operators to dismantle preexisting structures and facilities to meet the specific design criteria of the interim regulations.

However, the court emphasized that the performance standards must be met and clarified that such structures and facilities would have to be reconstructed if they did not meet the performance standards. Thus, the case stands for the proposition that structures and facilities existing prior to SMCRA must meet performance standards, even though they may not be required to comply with specific design criteria, of the interim program. The requirement to completely eliminate highwalls is a performance standard. Accordingly, this case does not support the commenter's argument.

The commenter also cited another decision by the same court, *In Re: Permanent Surface Mining Regulation Litigation*, 21 ERC 1193 (D.D.C. 1984), as holding "that Congress did not intend for the grading and highwall elimination requirements of section 515(b)(3) to encompass pre-existing highwalls." Clearly, the "pre-existing highwalls" to which the court referred were those highwalls in existence and abandoned without being reclaimed prior to the effective date of SMCRA, August 3, 1977. See e.g. *In Re: Permanent Surface Mining Regulation Litigation*, 620 F. Supp. 1519, 1572 (D.D.C. 1985). See also *National Wildlife Federation* v. *Lujan*, 773 F. Supp. 419, 439–441 (D.D.C. 1990). It is thus apparent that the court's decision cited by the commenter has no application to a continuously mined area. That situation simply was not contemplated by the court. Moreover, OSM does not interpret its rules governing remining in previously mined areas to apply to continuously mined areas. "[W]here there are continuous operations under a permit, this is not a remining situation. * * * these special remining rules do not apply to operations in areas where there has been past compliance with the Act [SMCRA] or there is a continuing responsibility under the Act" (47 FR 51316, 51320, November 12, 1982). See also 58 FR 3466, 3467 (January 8, 1993).

The commenter also stated that "[e]ven before the district court's decision, the Interior Board of Surface Mining Appeals held that highwall elimination requirements could not be applied retroactively," citing *Cedar Coal Co.*, 1 IBSMA 145 (April 20, 1979) and *Miami Springs Properties*, 2 IBSMA 399 (December 23, 1980). The commenter's argument regarding these two Board decisions is misplaced. Neither one of these Board decisions held that SMCRA's highwall elimination requirements could not be applied retroactively.

Both of these Board decisions interpreted a provision of the interim program standards governing backfilling and grading requirements at 30 CFR 715.14. Both decisions emphasized that operators were required to comply with the backfilling and grading performance standards of the interim program, despite the fact that their operations preceded SMCRA. However, the Board interpreted an operator's duty to comply with the requirements of 30 CFR 715.14(b)(1)(ii),which demanded the complete elimination of highwalls in remining situations, as conditioned upon whether disturbance of the pre-existing highwall caused an adverse physical impact.

Although OSM at one time adopted this "adverse physical impact" standard and incorporated it into the permanent program regulations (48 FR 41720, September 16, 1983), OSM later suspended (50 FR 257, January 3, 1985), and then removed (51 FR 41734, November 18, 1986), the adverse physical impact standard from the permanent program regulations in response to a court order entered pursuant to a joint motion by parties in the case of *In Re: Permanent Surface Mining Regulation Litigation*, Docket No. 79–1144 (D.D.C. December 3, 1984). In its November 18, 1986, rulemaking, OSM made clear that the two Board decisions relied upon by the commenter, despite previous interpretations to the contrary, have no application to the backfilling and grading requirements of the permanent program regulations, as modified therein. See 51 FR 41734, 41735 (November 18, 1986). OSM explained that the permanent program regulations, as modified, require an operator engaged in remining operations to eliminate the preexisting highwall to the maximum extent practical whenever the highwall is reaffected or enlarged. It is

thus not necessary for the remining operation to have an adverse physical impact upon a pre-existing highwall before the operator is required to eliminate the highwall to the maximum extent practical.

Thus, despite the commenter's arguments to the contrary, the Board decisions cited by the commenter do not hold that highwall elimination requirements cannot be applied retroactively. Moreover, as discussed above, OSM does not interpret its provisions governing remining operations as encompassing continuously mined areas. See 47 FR 51316, 51320 (November 12, 1982).

The Director does agree with two points made by the commenter. First, the Director acknowledges that OSM has approved similar provisions to the Utah proposal in Kentucky (52 FR 49398, December 31, 1987), and West Virginia (56 FR 21304, May 23, 1990). Indeed, the Director has discussed the rationale for approving the Kentucky and West Virginia provisions at length in finding No. 3(B). However, contrary to the commenter's assertion, the Director has not approved similar provisions in Virginia.

The Director further agrees with the commenter's statement that the proposed amendment is in accordance with congressional direction, as set forth in section 516(a) of SMCRA, 30 U.S.C. 1266(a), to consider the distinct differences between surface and underground coal mining operations when promulgating rules and regulations directed toward the surface effects of underground mining operations. Once again, the Director discusses this at length in finding No. 3(B).

2. Agency Comments

Pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(11)(i), the Director solicited comments from the Administrator of the Environmental Protection Agency (EPA), the Secretary of Agriculture, and various other Federal agencies with an actual or potential interest in the Utah program.

By letters dated June 4, 1992, and November 2, 1992, the Army Corps of Engineers responded that the proposed changes to the Utah program were satisfactory to that agency (administrative record Nos. UT–768 and UT–798).

By letter dated May 28, 1992, the Bureau of Land Management responded that it reviewed the proposed amendment for impacts to the effective management of Federal coal resources and found no conflicts (administrative record No. UT–765).

By letters dated May 19, 1992, and November 2, 1992, the Bureau of Mines responded that it had no comments on the proposed amendment (administrative record Nos. UT–763 and UT–799).

By letter dated November 4, 1992, the Fish and Wildlife Service responded that it found nothing of significant concern in the proposed amendment (administrative record No. UT–804).

By letter dated June 2, 1992, the Soil Conservation Service responded that it had no specific comments (administrative record No. UT–766).

By telephone conversation on June 18, 1992, the U.S. Forest Service (USFS) stated that it did not have any concerns relative to USFS interests (administrative record No. UT–769).

By letter dated July 10, 1992, the Mine Safety and Health Administration (MSHA) expressed concern over a potential conflict of MSHA's regulations with Utah's refuse pile rules that Utah included in the amendment but did not propose to revise (administrative record No. UT–772). In particular, MSHA was concerned because Utah Admin. R. 645–301–553.250 does not mention refuse pile requirements that are included in MSHA's regulations at 30 CFR 77.215(h). MSHA recommended that a statement regarding the MSHA requirements be added to Utah's rules.

MSHA's regulation at 30 CFR 77.215(h) addresses compaction, slope, and minimum safety factor for refuse piles. OSM's regulation at 30 CFR 816.83 requires that refuse piles meet the requirements of 30 CFR 77.214 and 77.215.

Utah Admin. R. 645–301–260 incorporates by reference the refuse pile requirements of Utah Admin. R. 645–301–536.900. The referenced rule, which Utah did not submit as part of the amendment, does require that refuse piles meet the requirements of MSHA's regulations at 30 CFR 77.214 and 30 CFR 77.215. Therefore, although Utah does not mention MSHA's 30 CFR 77.215(h) requirements in Utah Admin. R. 645–301–250, Utah does incorporate them by reference at Utah Admin. R. 645–301–553.260 and 536.900. On this basis, it is not necessary for the Director to require Utah to revise its program in response to MSHA's comment.

By a second letter dated January 13, 1993, MSHA commented that Utah's September 30, 1992 revised proposed amendment did not appear to conflict with any current MSHA regulations (administrative record No. UT–814). MSHA also quoted proposed Utah Admin. R. 645–301–553.523 noting that Utah's requirements are more stringent than title 30 of the Code of Federal Regulations, which includes both MSHA and OSM's regulations. MSHA further stated that other parts of the amendment concerning grading, drainage, and contour restoration did not appear to be in conflict with title 30 of the Code of Federal Regulations. The Director does not agree with MSHA's assessment that proposed Utah Admin. R. 645–301–553.523 is more stringent than title 30 of the Code of Federal Regulations. As discussed in finding No. 3(D) above, the Director is requiring Utah to amend proposed Utah Admin. R. 645–301–553.523 to be consistent with the Federal regulations at 30 CFR 816.102(a)(3), 817.102(a)(3), 816.106(b)(3), and 817.106(b)(3).

3. State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments from the SHPO and ACHP for all amendments that may have an effect on historic properties. By letters dated May 14, 1992, and October 21, 1992, the Director solicited comments from these offices (administrative record Nos. UT–760 and UT–792). By letter dated May 21, 1992, the Utah State Historic Preservation Office responded that it has previously concurred with OSM's recommendations for the project and had no additional comment at that time (administrative record No. UT–764). The ACHP did not comment on the proposed amendment.

4. U.S. Environmental Protection Agency (EPA) Concurrence

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 et seq.) and the Clean Air Act, as amended, (42 U.S.C. 7401 et seq.). EPA gave written concurrence with the proposed amendment by letter dated November 17, 1992 (administrative record No. UT–805).

EPA noted that (1) Utah Admin. R. 645–301–553.220 allows for the placement of spoil in the area outside the mined-out surface area, (2) Utah Admin. R. 645–301–553.260 allows for the disposal of coal processing waste and underground development waste in the mined-out surface area, and (3) the activities described in the aforementioned rules and in Utah Admin. R. 645–301–553.631 (mountaintop removal) could fall under the category of mine wastes discharged

into waters of the United States for the primary purpose of waste disposal but with the effect of fill.

EPA further noted that the Clean Water Act (CWA) requires that all point source discharges of pollutants into waters of the United States comply with water quality standards and technology-based requirements implemented through an EPA or State issued National Pollutant Discharge Elimination System (NPDES) permit. These standards shall be such as to protect the public health or welfare, enhance the quality of water, and serve the purposes of the CWA. In addition, a permit for dredge and fill may be required under section 404 of CWA.

The Director acknowledges EPA's statements.

EPA concurred with the proposed amendment and found that Utah's proposed rule revisions demonstrate the legal authority, administrative capability, and technical conformity with NPDES regulations necessary to maintain water quality standards promulgated under the CWA, as amended (33 U.S.C. 1251 et seq.).

V. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and additional requirements, the proposed amendment that Utah submitted on April 10, 1992, and revised on September 30, 1992.

As discussed in finding No. 3(C)(1), the Director does not approve proposed Utah Admin. R. 645–301–553.650 and requires Utah to revise it to require that, prior to obtaining Utah's approval for highwalls to be retained, the operator must establish and Utah must find in writing that any proposed highwall will comply with the AOC criteria at Utah Admin. R. 645–301–553.651 through 655 and the stability requirement at Utah Admin. R. 645–301–553.523.

As discussed in finding No. 3(C)(2), the Director does not approve proposed Utah Admin. R. 645–301–553.651 and requires Utah to revise it to restrict the height or retained highwalls to the height of cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations.

As discussed in finding No. 3(C)(3), the Director (1) does not approve Utah's proposal to not apply proposed Utah Admin. R. 645–301–533.652 until it is put into effect in the Utah program, and (2) requires Utah to revise proposed Utah Admin. R. 645–301–553.652 to state that it has an applicability date of December 13, 1982, and applies to any highwall retained pursuant to the AOC alternative.

As discussed in finding No. 3(D), the Director approves Utah Admin. R. 645–301–553.500 and .523 and requires Utah to (1) eliminate the inconsistency between the title "previously mined areas" at Utah Admin. R. 645–301–553.500 and the content of subsection Utah Admin. R. 645–301–553.523, which addresses not only highwall remnants in areas that were previously mined, but also highway remnants and retained highwalls in connection with continuously mined areas and the AOC alternative, and to otherwise amend their program to clarify that the stability criteria of proposed Utah Admin. R. 645–301–553.523 apply to the AOC alternative at Utah Admin. R. 645–301–553.650, (2) revise Utah Admin. R. 645–301–553.523 to specify that, in addition to the public health and safety, a highwall remnant or retained highwall must not pose a hazard to the environment, and (3) revise Utah Admin. R. 645–301–553.523 to delete the phrase "not to exceed either the angle of repose or such lesser slope as is necessary to."

Except as noted, the Director approves the rules with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 944, which codify decisions concerning the Utah program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Effect of Director's Decision

Under section 503 of SMCRA, 30 U.S.C. 1253, a State may not exercise jurisdiction over surface coal mining and reclamation operations unless it has a State program approved by the Secretary. Similarly, 30 CFR 732.17 requires a State to submit any alteration of an approved State program to OSM for approval. The Federal regulation at 30 CFR 732.17(g) provides that no change in the law or regulations that make up a State program shall take effect for purposes of a State program until approved by OSM as an amendment.

This prohibits a State from making any unilateral change in its approved State program. Any change in a State program is not enforceable by the State until approved by OSM. In oversight of the Utah program, the Director will recognize only the statutes, regulations, and other materials approved by OSM, together with any consistent implementing policies, directives, and other materials, and will require that Utah enforce only such provisions.

VII. Procedural Determinations

1. Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 (Reduction of Regulatory Burden) for actions related to approval or conditional approval of State regulatory programs, actions, and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary, and OMB regulatory review is not required.

2. Executive Order 12278

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 10, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T, of the Code of Federal Regulations is amended as set forth below.

PART 944—UTAH

1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended by adding new paragraph (w) to read as follows:

§ 944.15 Approval of amendments to State regulatory program.

* * * * *

(w) With the exceptions of (1) Utah Admin. R. 645–301–553.650, the requirement for regulatory authority approval of Utah's AOC alternative; (2) Utah Admin. R. 645–301–553.651, the height and length requirements of retained highwalls; and (3) Utah Admin. R. 645–301–553.652, replacement of a pre-existing cliff or similar natural premining feature with a retained highwall and the date of applicability of those rules, the following revisions to the Utah Administrative Rules, as submitted to OSM on April 30, 1992, and revised on September 30, 1992, are approved effective September 17, 1993.

645–100–200	Definition of "Highwall."
645–301–553	Contemporaneous Reclamation for Backfilling and Grading.
645–301–553.100	Backfilling and Grading of Disturbed Areas.
645–301–553.130	Static Safety Factor.
645–301–553.510, .520, and .521	Backfilling and Grading of Previously Mined Areas.
645–301–553.523	Static Safety Factor and Alternative Stability Criteria.
645–301–553.620	Incomplete Elimination of Highwalls in Previously Mined Areas.
645–301–553.630 and .631	Required Regulatory Authority Approval for Mountaintop Removal Operations.
645–301–553.632 and .633	AOC Variance Criteria.
645–301–553.652	Replacement of a Pre-existing Cliff or Similar Natural Premining Feature With a Retained Highwall.
645–301–553.653	Modifications to Retained Highwalls Restoring Cliff-Type Habitats Required by Premining Flora and Fauna.
645–301–553.654	Compatibility of Retained Highwalls With the Approved Postmining Land Use and Visual Attributes of the Area.
645–301–553.655	Exemption From Obtaining a Variance From Approximate Original Contour Requirements.

3. Section 944.16 is amended by adding new paragraphs (a), (b), (c), and (d) to read as follows:

§ 944.16 Required program amendments.

* * * * *

(a) By November 16, 1993, Utah shall submit a proposed amendment for highwall retention and approximate original contour (AOC) at Utah Admin. R. 645–301–553.650 to require that, prior to obtaining Utah's approval for highwalls to be retained, the operator must establish and Utah must find in writing that any proposed highwall will comply with the approximate original contour criteria at Utah Admin. R. 645–301–553.651 through 655 and the stability requirement at Utah Admin. R. 645–301–553.523.

(b) By November 16, 1993, Utah shall submit a proposed amendment for highwall retention and approximate original contour at Utah Admin. R. 645–301–553.651 restricting the height of retained highwalls to the height of cliffs or cliff-like escarpments that were replaced or disturbed by the mining operations.

(c) By November 16, 1993, Utah shall submit a proposed amendment stating that its requirement at Utah Admin. R. 645–301–553.652 has an applicability date of December 13, 1982, and applies to any highwall retained pursuant to the approximate original contour alternative.

(d) By November 16, 1993, Utah shall submit a proposed amendment for Utah Admin. R. 645–301–553.523 (1) eliminating the inconsistency between the title "previously mined areas" at Utah Admin. R. 645–301–553.500 and the content of subsection Utah Admin. R. 645–301–553.523, and clarifying that the stability criteria of proposed Utah Admin. R. 645–301–553.523 apply to the AOC alternative at Utah Admin. R. 645–301–553.650, (2) specifying that a highwall remnant or retained highwall must not pose a hazard to the environment, and (3) deleting the phrase "not to exceed either the angle of repose or such lesser slope as is necessary to".

* * * * *

[FR Doc. 93–22676 Filed 9–16–93; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

[MB–42–F]

RIN 0938–AF13

Medicaid Program; Qualified Family Members

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: Under the Aid to Families with Dependent Children (AFDC) program, certain States may elect to limit the number of months of benefits provided to families who are eligible by

reason of the unemployment of the principal wage earner. This final rule ensures that States that exercise this option continue to provide Medicaid to qualified family members beyond the time when AFDC ends solely because of the State's election of a time limit. This final rule conforms the regulations with sections 1902(a)(10)(A)(i)(V) and 1905(m) of the Social Security Act, as added by section 401(d) of the Family Support Act of 1988.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Richard Coyne, (410) 966–4458.

SUPPLEMENTARY INFORMATION:

I. Background

In general, under the Medicaid program, title XIX of the Social Security Act (the Act), individuals who are eligible for certain public assistance programs—for example, Aid to Families with Dependent Children (AFDC) under Part A of title IV of the Act and Supplemental Security Income (SSI) under title XVI of the Act—are eligible for medical assistance as members of a categorically needy group. Similarly, unless expressly provided for by statute, an individual's loss of eligibility for AFDC or SSI benefits may terminate that individual's classification as categorically needy. As a consequence, the individual's Medicaid eligibility may also be terminated. (Title XIX of the Act requires coverage of certain categorical groups other than cash assistance recipients. In addition, title XIX provides States with various options to provide Medicaid coverage to additional categorical groups. Hence, cessation of receipt of AFDC or SSI need not necessarily result in an individual's loss of Medicaid.)

On August 17, 1992, we published in the **Federal Register** (57 FR 36968) a proposed rule that would extend Medicaid eligibility to certain individuals whose AFDC eligibility is terminated because a State imposes a time limit on AFDC cash benefits available to a family with an unemployed principal wage earner. Under the AFDC program, States provide cash assistance to certain families that meet the eligibility criteria. In accordance with section 407 of the Act, until October 1, 1990, States had the option to provide AFDC assistance to two-parent families when the principal wage earner was unemployed. These families were eligible for Medicaid by virtue of their eligibility for AFDC. Effective October 1, 1990, under section 401 of the Family Support Act of 1988 (Pub. L. 100–485), all States are required to furnish AFDC to these families. However, States which had not previously chosen to provide benefits to these families are permitted to deny AFDC cash payments to a family that has received AFDC on the basis of the unemployment of the principal wage earner in at least 6 months out of the preceding 12 months. The October 1, 1990, date does not apply to Guam, Puerto Rico, American Samoa, and the Virgin Islands where the effective date is October 1, 1992.

Section 401(d) of the Family Support Act of 1988 also added new sections 1902(a)(10)(A)(i)(V) and 1905(m) to title XIX, which define "qualified family member" and require State plans to make Medicaid available to qualified family members. Section 1905(m)(1) of the Act defines a "qualified family member" as an individual (other than a qualified pregnant woman or child, as defined in section 1905(n) of the Act) who is a member of a family that would be receiving aid under the State plan under Part A of title IV pursuant to section 407 if the State had not exercised its option under section 407(b)(2)(B)(i) of the Act to limit the number of months it will pay AFDC to a family with an unemployed principal wage earner.

Section 401(d) of the Family Support Act of 1988 also contains a sunset provision, which terminates the requirement that States provide Medicaid to qualified family members effective October 1, 1998. The statute states that no individual may be a qualified family member for any period after September 30, 1998.

II. Provisions of the Proposed Rule and Public Comments Received

In the August 1992 proposed rule, we proposed to revise 42 CFR part 435, Subpart B, Mandatory Coverage of the Categorically Needy and Special Groups, by adding a new § 435.119. This section provides for mandatory categorical eligibility for qualified family members and defines a qualified family member. (We proposed to redesignate existing § 435.119 under undesignated subheading, "Mandatory Coverage of Adoption Assistance and Foster Care Children" as new § 435.145 under the same undesignated subheading.)

Section 1905(m) of the Act defines "a qualified family member" as a member of a family that would be receiving AFDC cash benefits based on the unemployment of the principal wage earner had the State not chosen to place a time limit on those benefits, but excludes from the definition those family members who would be eligible as qualified pregnant women or qualified children as defined in section 1905(n) of the Act. To simplify the administration of the program, we proposed to modify the definition. In the proposed rule, we defined "qualified family member" as any member of a family that would be receiving AFDC cash benefits based on the unemployment of the principal wage earner had the State not chosen to place a time limit on those benefits, whether or not those individuals would be eligible as qualified pregnant women or qualified children. We based our proposal to modify the definition on two authorities: (1) The authority of section 1902(a)(19) of the Act, which allows for safeguards to ensure that Medicaid care and services will be provided in a manner consistent with simplicity of administration and the best interests of recipients, and (2) the Secretary's authority to publish rules and regulations necessary to the efficient administration of the programs under the Social Security Act, 42 U.S.C. 1302.

Under our proposed definition, an individual may receive Medicaid as a qualified pregnant woman, as a qualified child, or as a qualified family member. Qualified pregnant women, qualified children and qualified family members are all mandatory eligibility groups and all are eligible for the same scope of services under the State Medicaid plan (section 1902(a)(10)(B)). Because the statutory exception is a distinction without a difference, we believe that this interpretation of the statutory definition is clearer, simpler, and therefore, easier to administer. In our proposal, we specifically invited public comment on this proposed definition. We received one timely response and that response contained favorable comments on this definition.

Under existing § 435.916 and § 435.930, States are required to redetermine eligibility when circumstances change and must continue to provide Medicaid until the recipient is found ineligible. We have interpreted this requirement for redetermination, in accordance with the decision in *Stenson* v. *Blum*, 476 F. Supp 1331 (S.D. N.Y. 1979), *affirmed* 628 F. 2d 1345, *cert. denied*, 449 U.S. 885 (1980), to mean determining whether the individual is eligible on any basis. Therefore, we proposed to provide that when an individual ceases to meet the definition of qualified family member, the State is required to determine if the individual is eligible under any other group before terminating his or her Medicaid eligibility. Pregnant women and children who have been considered

qualified family members but who also meet the eligibility requirements as qualified pregnant women or qualified children (as well as low-income pregnant women, infants and children and medically needy individuals) will be discovered at this time.

In the proposed rule, we noted that the parenthetical provision of § 435.116(a)(1) and the provisions of § 435.116(a)(2) are not effective while section 401(d) of Public Law 100–485 is in effect; that is, until October 1, 1998. These two provisions refer to any State AFDC plan that does not include an AFDC unemployed parent program. Until October 1, 1998, all States will be required to include such a program in their AFDC State plans. Consequently, the provisions are not effective until that date. The pregnant women to whom these provisions apply are eligible under the mandatory coverage provisions of § 435.116(a)(3) and Public Law 100–485.

We proposed to revise the title of § 435.116 to read, "Qualified pregnant women and children who are not qualified family members."

We proposed to amend 42 CFR part 436, which contains the eligibility provisions applicable to Guam, Puerto Rico, and the Virgin Islands. Those geographical areas are not subject to the SSI provisions, but rather participate in the cash assistance programs (title X, Aid to the Blind; title XIV, Aid to the Permanently and Totally Disabled; title XVI, Aid to the Aged, Blind, and Disabled). We proposed to make corresponding changes to § 436.120 to revise the title to read "Qualified pregnant women and children who are not qualified family members". We also proposed to add a new § 436.121 entitled, "Qualified family members", which contains provisions essentially identical to those in new § 435.119 with one exception. The statute provides a later effective date for implementation of these provisions in American Samoa, Guam, Puerto Rico and the Virgin Islands. Consequently, the provisions of §§ 435.119 (for American Samoa) and 436.121 are effective October 1, 1992.

III. Provisions of this Final Rule

We are adopting the August 1992 proposed rule as a final rule with minor technical revisions to clarify the applicable periods of the regulations.

IV. Paperwork Reduction Act

Sections 435.119 and 436.121 of this final rule contain information collection requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3504, et seq.). The information collection requirements concern State plan amendments that must be completed by States. The reporting burden for the collection of information required in § 435.119 and § 436.121 is estimated to be one hour per State plan amendment. A notice will be published in the **Federal Register** when approval is obtained.

V. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. 12291 criteria for a "major rule;" that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5. U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if this rule has a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that has fewer than 50 beds and is located outside a Metropolitan Statistical Area.

We estimate the Medicaid program expenditures as a result of conforming these regulations to the statute to be as follows:

ESTIMATED COST ($ IN MILLIONS)

	FY 93	FY 94	FY 95	FY 96	FY 97
Federal	90	100	110	120	130
State	70	75	85	90	100

Although we anticipate increased costs to Federal and State governments as indicated above, we believe that these costs will have a beneficial effect on families. We expect increased health care coverage for families as a result of the implementation of these regulations.

Costs as a result of these final regulations will be incurred regardless of the promulgation of these regulations. The provisions of this rule merely conform the regulations to the legislative provisions of sections 1902(a)(10)(A)(i)(V) and 1905(m) of the Act, as added by section 401(d) of the Family Support Act of 1988. Therefore, we have not prepared an analysis under E.O. 12291.

We have determined, and the Secretary certifies, that these final regulations will not have significant economic impact on a substantial number of small entities and will not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis or an analysis of effects on small rural hospitals.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs—health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs—health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

A. 42 CFR part 435 is amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The title of § 435.116 is revised to read as follows:

§ 435.116 Qualified pregnant women and children who are not qualified family members.

§ 435.145 [Redesignated from § 435.119]

3. Section 435.119 is redesignated as new § 435.145 under the undesignated centerheading, Mandatory Coverage of Adoption Assistance and Foster Care Children.

4. New § 435.119 is added under a new undesignated centerheading, Mandatory Coverage of Qualified Family Members to read as follows:

Mandatory Coverage of Qualified Family Members

§ 435.119 Qualified family members.

(a) *Definition.* A *qualified family member* is any member of a family, including pregnant women and children eligible for Medicaid under § 435.116 of this subpart, who would be receiving AFDC cash benefits on the basis of the unemployment of the principal wage earner under section 407 of the Act had the State not chosen to place time limits on those benefits as permitted under section 407(b)(2)(B)(i) of the Act.

(b) *State plan requirement.* The State plan must provide that the State makes Medicaid available to any individual who meets the definition of "qualified family member" as specified in paragraph (a) of this section.

(c) *Applicability.* The provisions in this section are applicable in the 50 States and the District of Columbia from October 1, 1990, through September 30, 1998. The provisions are applicable in American Samoa from October 1, 1992, through September 30, 1998.

B. 42 CFR part 436 is amended as set forth below:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

1. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The title of § 436.120 is revised to read as follows:

§ 436.120 Qualified pregnant women and children who are not qualified family members.

3. A new § 436.121 is added to read as follows:

§ 436.121 Qualified family members.

(a) *Definition.* A *qualified family member* is any member of a family, including pregnant women and children eligible for Medicaid under § 436.120 of this subpart, who would be receiving AFDC cash benefits on the basis of the unemployment of the principal wage earner under section 407 of the Act had the State not chosen to place time limits on those benefits as permitted under section 407(b)(2)(B)(i) of the Act.

(b) *State plan requirement.* The State plan must provide that the State makes Medicaid available to any individual who meets the definition of "qualified family member" as specified in paragraph (a) of this section.

(c) *Applicability.* The provisions in this section are applicable from October 1, 1992, through September 30, 1998.

(Catalog of Federal Domestic Assistance Program No. 93.778—Medical Assistance Program)

Dated: May 5, 1993.

William Toby,

Acting Deputy Administrator, Health Care Financing Administration.

Approved: July 6, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–22747 Filed 9–16–93; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–67; RM–8114]

Radio Broadcasting Services; Globe, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 247C3 for Channel 247A at Globe, Arizona, and modifies the construction permit for Station KRXS (FM) to specify operation on the higher powered channel, as requested by Linda C. Potyka. (See 58 FR 17818, April 6, 1993.) Coordinates for Channel 247C3 at Globe are 33–17–37 and 110–50–09. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 25, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–67, adopted August 27, 1993, and released September 9, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 247A and adding Channel 247C3 at Globe,

Federal Communications Commission

Victoria M. McCauley,

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

[FR Doc. 93–22686 Filed 9–16–93; 8:45 am]

BILLING CODE 6712–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1832

Contractor Financing Payments

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This notice formalizes in the NASA FAR Supplement (NFS) the authority given in the Federal Acquisition Regulation (FAR) to make contract financing payments in less than 30 days. The change to the NFS provides that flexibility for NASA contracts in those cases where it is determined to be in the best interest of the Government.

EFFECTIVE DATE: September 17, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, (202) 359–0444.

SUPPLEMENTARY INFORMATION:

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Cite GPO Subscription Stock Number 933–003–00000–1. It is not distributed to the public, either in whole or in part, directly by NASA.

Impact

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subject in 48 CFR Part 1832

Government procurement.

Deidre A. Lee,

Associate Administrator for Procurement.

Accordingly, 48 CFR part 1832 is amended as follows:

1. The authority citation for 48 CFR part 1832 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1832—CONTRACT FINANCING

2. Section 1832.906 is added to read as follows:

1832.906 Contract financing payments.

It is NASA's policy to make contract financing payments on the 30th day after the designated billing office has received a proper request. However, as authorized at FAR 32.906(a), the due date for making contract financing payments for a specific contract may be earlier than the 30th day, but not earlier than 7 days, after the designated billing office has received a proper request, provided that:

(a) The contractor provides consideration whose value is determined to be greater than the cost to the United States Treasury of interest on funds paid prior to the 30th day, calculated using the Current Value of Funds Rate published annually in the **Federal Register** (subject to quarterly revision);

(b) Approval is obtained from the installation procurement officer with concurrence from the installation Financial Management Officer; and

(c) The contract file is adequately documented to state what consideration was received and show how the consideration was valued.

[FR Doc. 93–22801 Filed 9–16–93; 8:45 am]

BILLING CODE 7510–01–M

Proposed Rules

Federal Register
Vol. 58, No. 179
Friday, September 17, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–126–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require modification of the automatic speed brake control circuit. This proposal is prompted by a report of failure of a hydraulic pressure line to a landing gear truck tilt cylinder, which resulted in inadvertent deployment of the automatic speed brake. The actions specified by the proposed AD are intended to prevent inadvertent in-flight operation of the automatic speed brake system.

DATES: Comments must be received by November 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–126–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from 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.

FOR FURTHER INFORMATION CONTACT: Kristin Larson, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1760; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–126–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–126–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In July 1989, a transport category airplane was involved in an accident in Sioux City, Iowa, resulting in the deaths of 110 passengers and one crewmember. The National Transportation Safety Board (NTSB) identified the catastrophic disintegration of the stage 1 fan disk of one of the engines as a probable cause of the accident. The resulting debris damaged the hydraulic systems that power the flight controls, resulting in the loss of virtually all control capability.

Following the accident, the Administrator of the Federal Aviation Administration convened a Systems Review Task Force (SRTF) to investigate means for enhancing airplane survivability following damage to fully powered flight control systems. The SRTF formed working groups to perform these investigations for specific airplane models to determine what actions could be effective in protecting other transport category airplanes with powered flight control systems from similar engine or systems failures.

The SRTF working group assigned to review Boeing Model 747 series airplanes has completed its review of the Model 747 design, including existing service bulletins, and has issued a report recommending incorporation of one of the modifications described in a Boeing Model 747 service bulletin. A copy of the report is contained in the Rules Docket for this AD action.

One of the existing service bulletins, Boeing Service Bulletin 27–2066, Revision 1, dated August 20, 1971, was issued in response to a report of failure of a hydraulic pressure line to a landing gear truck tilt cylinder on a Model 747 series airplane, which resulted in inadvertent in-flight extension of the speed brakes. Previously, the hydraulic pressure line to a landing gear truck tilt cyclinder had failed, causing the loss of system pressure. During a subsequent landing, hydraulic fluid was forced out of the associated tilt cylinders, which allowed cavitation in the cylinders on the following takeoff as the trucks rotated to the tilted position. During the next landing approach, the automatic speed brake system was armed and the flaps were extended. As the airplane attitude changed during flap extension, the cavitated tilt cylinders allowed the landing gear trucks to move out of the fully tilted position and initiated automatic speed brake extension. The flight crew promptly retracted the speed brakes. This condition, if not corrected, could result in inadvertent in-flight operation of the automatic speed brake system.

The FAA has reviewed and approved Boeing Service Bulletin 27–2066,

Revision 1, dated August 20, 1971, that describes procedures for modification of the automatic speed brake control circuit. This modification entails reworking the landing gear primary and alternate logic modules and adding airplane wiring to connect hydraulic system pressure switch inputs to the modules. Accomplishment of this modification will prevent operation of the primary or alternate tilt relays unless either hydraulic system number 1 is pressurized and both left and right body gear trucks are in the untilted position, or hydraulic system number 4 is pressurized and both left and right wing gear trucks are in the untilted position.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the automatic speed brake control circuit. The actions would be required to be accomplished in accordance with the service bulletin described previously. This proposed action is one of several rulemaking actions based on the recommendations of the SRTF Working Groups. The FAA is continuing to review the SRTF recommendations and may consider further rulemaking.

There are approximately 98 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 56 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost for required parts would be minimal. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $36,960, or $660 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 93–NM–126–AD.

Applicability: Model 747 series airplanes; as listed in Boeing Service Bulletin 27–2066, Revision 1, dated August 20, 1971; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent in-flight operation of the automatic speed brake system, accomplish the following:

(a) Within 5,000 hours time-in-service after the effective date of this AD, modify the automatic speed brake control circuit in accordance with Boeing Service Bulletin 27–2066, Revision 1, dated August 20, 1971.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

Issued in Renton, Washington, on September 10, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–22737 Filed 9–16–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–127–AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require modification of the ram air turbine (RAT) system wiring. This proposal is prompted by a report of chatter occurring during takeoff and landing in the RAT airspeed switch relay. The actions specified by the proposed AD are intended to prevent the inability to maintain hydraulic system power in the event that power is lost in both engines.

DATES: Comments must be received by November 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from 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.

FOR FURTHER INFORMATION CONTACT: Kristin Larson, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1760; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–127–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In July 1989, a transport category airplane was involved in an accident in Sioux City, Iowa, resulting in the deaths of 110 passengers and one crewmember. The National Transportation Safety Board (NTSB) identified the catastrophic disintegration of the stage 1 fan disk of one of the engines as a probable cause of the accident. The resulting debris damaged the hydraulic systems that power the flight controls, resulting in the loss of virtually all control capability.

Following the accident, the Administrator of the Federal Aviation Administration convened a Systems Review Task Force (SRTF) to investigate means for enhancing airplane survivability following damage to fully powered flight control systems. The SRTF formed working groups to perform these investigations for specific airplane models to determine what actions could be effective in protecting other transport category airplanes with powered flight control systems from similar engine or systems failures.

The SRTF working group assigned to review Boeing Model 767 series airplanes has completed its review of the Model 767 design, including existing service bulletins, and has issued a report recommending incorporation of one of the modifications described in a Boeing Model 767 service bulletin. A copy of the report is contained in the Rules Docket for this AD action.

One of the existing service bulletins, Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988, was issued in response to a report of chatter occurring during takeoff and landing in the ram air turbine (RAT) airspeed switch relay on a Model 767 series airplane. The RAT provides hydraulic power for the flight controls in the event that power is lost in both engines. Investigation of the RAT automatic deployment wiring system revealed that a sneak circuit can cause the airspeed switch relay to chatter during takeoff and landing when the airplane speed is greater than 80 knots and the airplane is on the ground. The wiring that allows this sneak circuit is installed as a secondary system for the ground test of the RAT deployment system. The sneak circuit causes excessive cycling and reduces the expected operating life of the relay. If the switch becomes inoperative and stuck in the open position, the RAT will not automatically deploy. This condition, if not corrected, could result in the inability to maintain hydraulic system power in the event that power is lost in both engines.

The FAA has reviewed and approved Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988, that describes procedures for modification of the RAT system wiring. This modification entails replacing the RAT airspeed switch, capping and stowing a wire between the RAT airspeed switch and the air/ground relay, and performing a functional test of the RAT deployment system. Accomplishment of this modification will eliminate the sneak circuit that causes excessive cycling of the RAT airspeed switch relay.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the RAT system wiring. The actions would be required to be accomplished in accordance with the service bulletin described previously. This proposed action is one of several rulemaking actions based on the recommendations of the SRTF Working Groups. The FAA is continuing to review the SRTF recommendations and may consider further rulemaking.

There are approximately 90 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 53 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost for required parts would be minimal. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $10,203, or $193 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 93–NM–127–AD.

Applicability: Model 767 series airplanes; as listed in Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability to maintain hydraulic system power in the event that power is lost in both engines, accomplish the following:

(a) Within 4,000 hours time-in-service after the effective date of this AD, replace the ram air turbine (RAT) airspeed switch; cap and stow the wire between the RAT airspeed switch and the air/ground relay; and perform a functional test of the RAT deployment system; in accordance with Boeing Service Bulletin 767–29–0021, Revision 4, dated May 12, 1988.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

Issued in Renton, Washington, on September 10, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–22738 Filed 9–16–93; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–4731–1]

Outer Continental Shelf Consistency Update #1 For Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section the Clean Air Act Amendments of 1990, the applicable requirements for certain areas for Air Pollution from OCS Activities. The portion of the OCS air regulation that is being updated pertains to the requirements for OCS sources for which the State of Florida will be the designated COA. This action proposes to incorporate the requirements contained in "State of Florida Requirements Applicable to OCS Sources" (August 20, 1993). Proposed changes to these requirements are discussed below.

DATES: Comments on the proposed updates must be received on or before October 18, 1993.

ADDRESSES: Comments must be mailed (in duplicate if possible) to the U.S. Environmental Protection Agency, Region IV, Air, Pesticides, and Toxics Management Division, 345 Courtland Street, NE, Atlanta, GA 30365. (Attn: R. Scott Davis). Docket: The docket is available for public inspection and copying Monday through Friday during regular business hours at the following locations:

EPA Air Docket, Attn: Docket No. A–93–31, Environmental Protection Agency, 401 M Street SW., Washington D.C. 20460, Room M–1500.

Region IV Library, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: R. Scott Davis, Air, Pesticides, and Toxics Management Division, U.S. EPA Region IV, 345 Courtland Street NE., Atlanta, GA 30365. Telephone (404) 347–5014.

SUPPLEMENTARY INFORMATION:

Docket

Although the initial OCS rulemaking was determined to be subject to the requirements of section 307(d) of the Clean Air Act (General Provision Relating to Administrative Proceedings and Judicial Review), this proposed rulemaking is not subject to those requirements, nor are any rulemakings that are undertaken to update the OCS requirements to maintain consistency with onshore requirements, pursuant to section 328(a)(1). Supporting information used in developing the proposed notice and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–31 (see **ADDRESSES**).

Background

On September 4, 1992, EPA promulgated 40 CFR part 55 [1], which established requirements to control air pollution from OCS sources in order to comply with federal and state ambient air quality standards and the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude, approximately west of the Florida/Alabama state border. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent (NOI); and (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This Notice of Proposed Rulemaking is being proposed in response to the receipt of a NOI, submitted by Chevron USA Production Company on June 25, 1993, and represents the first update of part 55 for the State of Florida. The NOI includes general company information, a description of the proposed facility, estimated potential air emissions, emissions points, fuels, air pollution controls, and any proposed operating limitations. Public comments received in writing within 30 days of publication of this notice will be considered by EPA before promulgation of the final updated rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. In updating 40 CFR part 55, EPA reviewed the state rules for inclusion in part 55 to ensure that they comply with the attainment or maintenance of federal or state ambient air quality standards or

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources (40 CFR 55.1). EPA has also evaluated the rules to ensure they are not arbitrary or capricious (40 CFR 55.12 (e)). In addition, EPA has excluded administrative or procedural rules.[2]

EPA Evaluation and Proposed Action

In today's notice EPA proposes to incorporate the rules applicable to sources for which the State of Florida will be the COA. These rules include revisions to existing rules that already apply to OCS sources and are a result of the recodification and renumbering of Florida air regulations (Adopted 9/25/92) and the adoption of amendments to other existing air regulations:

Florida Administrative Code—Department of Environmental Protection. The following sections of Chapter 17:

4.020 Definitions (Adopted 7/11/93)
4.021 Transferability of Definitions (Adopted 8/31/88)
4.030 General Prohibitions (Adopted 8/31/88)
4.040 Exemptions (Adopted 8/31/88)
4.050 Procedure to Obtain Permit; Application, except (4)(b) through (4)(k) and 4(q) (Adopted 7/11/93)
4.070 Standards for Issuing or Denying Permits; Issuance; Denial (Adopted 3/28/91)
4.080 Modification of Permit Conditions (Adopted 3/19/90)
4.090 Renewals (Adopted 7/11/93)
4.100 Suspension and Revocation (Adopted 8/31/88)
4.110 Financial Responsibility (Adopted 8/31/88)
4.120 Transfer of Permits (Adopted 3/19/90)
4.130 Plant Operation—Problems (Adopted 8/31/88)
4.160 Permit Conditions, except (16) and (17) (Adopted 7/11/93)
4.210 Construction Permits (Adopted 8/31/88)
4.220 Operation Permits for New Sources (Adopted 8/31/88)
4.520 Definitions (Adopted 7/11/90)
4.530 Procedures (Adopted 3/19/90)
4.540 General Conditions for all General Permits (Adopted 8/31/88)
210.100 Purpose and Scope (Adopted 2/9/93)
210.200 Definitions (Adopted 2/9/93)
210.300 Permits Required (Adopted 9/25/92)
210.400 Emission Estimates (Adopted 9/25/92)
210.500 Air Quality Models (Adopted 9/25/92)
210.550 Stack Height Policy (Adopted 9/25/92)
210.650 Circumvention (Adopted 9/25/92)
210.700 Excess Emissions (Adopted 9/25/92)
210.980 Severability (Adopted 9/25/92)
212.100 Purpose and Scope (Adopted 2/2/93)
212.200 Definitions (Adopted 2/2/93)
212.300 Sources Not Subject to Prevention of Significant Deterioration or Nonattainment Requirements (Adopted 9/25/92)
212.400 Prevention of Significant Deterioration (Adopted 2/2/93)
212.410 Best Available Control Technology (BACT) (Adopted 9/25/92)
212.500 New Source Review for Nonattainment Areas (Adopted 2/2/93)
212.510 Lowest Achievable Emission Rate (LAER) (Adopted 9/25/92)
212.600 Source Specific New Source Review Requirements (Adopted 9/25/92)
212.700 Source Reclassification (Adopted 9/25/92)
256.100 Declaration and Intent (Adopted 10/20/86)
256.200 Definitions (Adopted 10/20/86)
256.300 Prohibitions (Adopted 8/26/87)
256.450 Open Burning Allowed (Adopted 6/27/91)
256.600 Industrial, Commercial, Municipal and Research Open Burning (Adopted 8/26/87)
256.700 Open Burning Allowed (Adopted 11/23/88)
272.200 Definitions (Adopted 9/25/92)
272.300 Ambient Air Quality Standards (Adopted 9/25/92)
272.500 Maximum Allowable Increases (Prevention of Significant Deterioration) (Adopted 9/25/92)
272.750 DER Ambient Test Methods (Adopted 9/25/92)
273.200 Definitions (Adopted 9/25/92)
273.300 Air Pollution Episodes (Adopted 9/25/92)
273.400 Air Alert (Adopted 9/25/92)
273.500 Air Warning (Adopted 9/25/92)
273.600 Air Emergency (Adopted 9/25/92)
296.200 Definitions (Adopted 6/11/93)
296.310 General Particulate Emission Limiting Standards (Adopted 2/2/93)
296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 2/2/93)
296.330 Best Available Control Technology (BACT) (Adopted 2/2/93)
296.400 Specific Emission Limiting and Performance Standards (Adopted 2/2/93)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) Emitting Facilities (Adopted 2/2/93)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 2/2/93)
296.800 Standards of Performance for New Stationary Sources (NSPS) (Adopted 6/11/93)
296.810 National Emission Standards for Hazardous Air Pollutants (Adopted 6/11/93)
297.100 Purpose and Scope (Adopted 12/2/92)
297.200 Definitions (Adopted 6/11/93)
297.310 General Test Requirements (Adopted 12/2/92)
297.330 Applicable Test Procedures (Adopted 12/2/92)
297.340 Frequency of Compliance Tests (Adopted 12/2/92)
297.345 Stack Sampling Facilities Provided by the Owner of an Air Pollution Point Source (Adopted 12/2/92)
297.350 Determination of Process Variables (Adopted 12/2/92)
297.400 EPA Methods Adopted by Reference (Adopted 12/2/92)
297.401 EPA Test Procedures (Adopted 6/11/93)
297.411 DER Method 1 (Adopted 12/2/92)
297.412 DER Method 2 (Adopted 12/2/92)
297.413 DER Method 3 (Adopted 12/2/92)
297.414 DER Method 4 (Adopted 12/2/92)
297.415 DER Method 5 (Adopted 12/2/92)
297.416 DER Method 5A (Adopted 12/2/92)
297.417 DER Method 6 (Adopted 12/2/92)
297.418 DER Method 7 (Adopted 12/2/92)
297.419 DER Method 8 (Adopted 12/2/92)
297.420 DER Method 9 (Adopted 12/2/92)
297.421 DER Method 10 (Adopted 12/2/92)
297.422 DER Method 11 (Adopted 12/2/92)
297.423 DER Method 12—Determination of Inorganic Lead Emissions from Stationary Sources (Adopted 12/2/92)
297.424 DER Method 13 (Adopted 12/2/92)
297.440 Supplementary Test Procedures (Adopted 6/11/93)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 6/11/93)
297.500 Continuous Emission Monitoring Requirements (Adopted 6/11/93)
297.520 EPA Performance Specifications (Adopted 6/11/93)
297.570 Test Report (Adopted 12/2/92)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 6/11/93)

The following rule is proposed to be deleted from the State of Florida requirements applicable to OCS sources. It will be superseded by the provisions of another rule.

2.700 Stationary Point Source Emission Test Procedures (Adopted 8/30/89). (Replaced by provisions of Chapter 17-297, Stationary Sources—Emissions Monitoring, Adopted 12/2/92)

Administrative Requirements

A. Executive Order 12291 (Regulatory Impact Analysis)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." Small entities

[2] Upon delegation the onshore area will use its administrative and procedural rules as onshore. In those instances where EPA does not delegate authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

include small businesses, organizations, and governmental jurisdictions.

As was stated in the final regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this notice of proposed rulemaking will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final OCS rulemaking dated September 4, 1992, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 35012 *et seq.* and has assigned OMB control number 2060–0249. This consistency update does not add any further requirements.

List of Subjects in 40 CFR Part 55

Administrative practice and procedures, Air pollution control, Outer Continental Shelf, Ozone, Sulfur oxides, Nitrogen dioxide, Particulate matter, Hydrocarbons, Nitrogen oxides, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Permits.

Dated: September 1, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is proposed to be amended by revising paragraph (e)(6)(i)(A) to read as follows:

§55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(A) State of Florida Requirements Applicable to OCS Sources, August 20, 1993.

* * * * *

3. Appendix A to CFR part 55 is proposed to be amended by revising paragraph (a)(1) under the heading Florida to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Florida

(a) * * *

(1) The following requirements are contained in State of Florida Requirements Applicable to OCS Sources, August 20, 1993:

Florida Administrative Code—Department of Environmental Protection. The following sections of Chapter 17:

4.020 Definitions (Adopted 7/11/93)
4.021 Transferability of Definitions (Adopted 8/31/88)
4.030 General Prohibitions (Adopted 8/31/88)
4.040 Exemptions (Adopted 8/31/88)
4.050 Procedure to Obtain Permit; Application, except (4)(b) through (4)(k) and 4(q) (Adopted 7/11/93)
4.070 Standards for Issuing or Denying Permits; Issuance; Denial (Adopted 3/28/91)
4.080 Modification of Permit Conditions (Adopted 3/19/90)
4.090 Renewals (Adopted 7/11/93)
4.100 Suspension and Revocation (Adopted 8/31/88)
4.110 Financial Responsibility (Adopted 8/31/88)
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4.130 Plant Operation—Problems (Adopted 8/31/88)
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4.210 Construction Permits (Adopted 8/31/88)
4.220 Operation Permits for New Sources (Adopted 8/31/88)
4.520 Definitions (Adopted 7/11/90)
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210.700 Excess Emissions (Adopted 9/25/92)
210.980 Severability (Adopted 9/25/92)
212.100 Purpose and Scope (Adopted 2/2/93)
212.200 Definitions (Adopted 2/2/93)
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212.600 Source Specific New Source Review Requirements (Adopted 9/25/92)
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296.200 Definitions (Adopted 6/11/93)
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296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 2/2/93)
296.330 Best Available Control Technology (BACT) (Adopted 2/2/93)
296.400 Specific Emission Limiting and Performance Standards (Adopted 2/2/93)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) Emitting Facilities (Adopted 2/2/93)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 2/2/93)
296.800 Standards of Performance for New Stationary Sources (NSPS) (Adopted 6/11/93)
296.810 National Emission Standards for Hazardous Air Pollutants (Adopted 6/11/93)
297.100 Purpose and Scope (Adopted 12/2/92)
297.200 Definitions (Adopted 6/11/93)
297.310 General Test Requirements (Adopted 12/2/92)
297.330 Applicable Test Procedures (Adopted 12/2/92)
297.340 Frequency of Compliance Tests (Adopted 12/2/92)

297.345 Stack Sampling Facilities Provided by the Owner of an Air Pollution Point Source (Adopted 12/2/92)
297.350 Determination of Process Variables (Adopted 12/2/92)
297.400 EPA Methods Adopted by Reference (Adopted 12/2/92)
297.401 EPA Test Procedures (Adopted 6/11/93)
297.411 DER Method 1 (Adopted 12/2/92)
297.412 DER Method 2 (Adopted 12/2/92)
297.413 DER Method 3 (Adopted 12/2/92)
297.414 DER Method 4 (Adopted 12/2/92)
297.415 DER Method 5 (Adopted 12/2/92)
297.416 DER Method 5A (Adopted 12/2/92)
297.417 DER Method 6 (Adopted 12/2/92)
297.418 DER Method 7 (Adopted 12/2/92)
297.419 DER Method 8 (Adopted 12/2/92)
297.420 DER Method 9 (Adopted 12/2/92)
297.421 DER Method 10 (Adopted 12/2/92)
297.422 DER Method 11 (Adopted 12/2/92)
297.423 DER Method 12 - Determination of Inorganic Lead Emissions from Stationary Sources (Adopted 12/2/92)
297.424 DER Method 13 (Adopted 12/2/92)
297.440 Supplementary Test Procedures (Adopted 6/11/93)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 6/11/93)
297.500 Continuous Emission Monitoring Requirements (Adopted 6/11/93)
297.520 EPA Performance Specifications (Adopted 6/11/93)
297.570 Test Report (Adopted 12/2/92)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 6/11/93)

[FR Doc. 93–22755 Filed 9–16–93; 8:45 am]
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NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Technical Assistance Grants

AGENCY: Institute of Museum Services, NFAH.

ACTION: Proposed regulations.

SUMMARY: The Institute of Museum Services issues proposes regulations relating to a program of Federal financial assistance for technical assistance grants to support training and implementation in museums. The proposed regulations implement the Museum Services Act. They state eligibility, conditions and other terms for the administration of the Technical Assistance Grants.

DATES: Comments must be received on or before October 18, 1993.

ADDRESSES: Comments should be addressed to Linda Bell, Institute of Museum Services, room 510, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Telephone: (202) 606–8539.

SUPPLEMENTARY INFORMATION:

General Background

The Museum Services Act ("the Act" which is title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended in 1980, 1982, 1984, 1985, and 1990). The purpose of the Act is stated in section 202 as follows:

> It is the purpose of the Museum Services Act to encourage and assist museums in their educational role in conjunction with formal systems of elementary, secondary, and post secondary education and with programs of non-formal education for all age groups: to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museums Services Board and Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museum disciplines, including those relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational, and cultural resources of the United States; and of the general public. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums. IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Public Law 101–512 Nov. 5, 1990. The Act lists a number of illustrative activities for which grants may be made, including assisting museums to improve their operations. Training and implementation provided by the Technical Assistance Grants are intended to help museums improve their operations.

List of Subjects in 45 CFR Part 1180

Government contracts, Grant programs-education, Museums, Non-profit organizations, Reporting and recordkeeping requirements.

Accordingly, the Institute of Museum Services proposes to add subpart F of chapter IX of title 45 of the Code of Federal Regulations as set forth below.

PART 1180—[AMENDED]

1. The authority citation for part 1180 continues to read as follows:

Authority: 20 U.S.C. 961 *et seq.* unless otherwise noted.

2. Subpart F of 45 CFR part 1180 is added to read as follows:

Subpart F—Technical Training and Implementation Grants to Museums

§ 1180.78 Technical training and implementation grants to museums.

(a) *Purpose of program.* The Director of the Institute of Museum Services makes two-part grants under this subpart to assist those who work in museums (paid or volunteer) to obtain training in technical areas of museum operations and to implement the training to improve museum services to the public.

(b) *Eligibility.*

(1) To be eligible to apply for a grant under this supbart, a museum must:

(i) Be a public or private nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes; and

(ii) Care for, and own or use tangible objects, whether animate or inanimate, and exhibit these objects to the public on a regular basis through facilities which it owns or operates, and

(iii) Have at least one staff member, whether paid or unpaid, whose primary responsibility is the acquisition, care or exhibition to the public of objects owned or used by the museum; and

(iv) Be open and providing museum services to the general public on a regular basis; and

(v) Be located in one of the fifty States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or Palau (until its compact of free association is approved.)

(2) A museum must have an operating budget for the fiscal year immediately preceding the deadline to which the museum applies of no more than $250,000 exclusive of non-cash support.

(3) Museum includes (but is not limited to) the following institutions if they satisfy the provisions of this section: (i) Aquariums and zoological parks; (ii) botanical gardens and arboretums; (iii) nature centers; (iv) museums relating to art, history (including historic buildings and sites); natural history, science and technology, planetariums, and specialized subject.

(4) A museum that receives a grant for training and implementation under this subpart for a fiscal year may not receive

another grant under this subpart for the same or subsequent fiscal years.

(5) Preference for funding will be given to a museum that has not received any grants from the Institute within two years of the deadline to which it applies over funding for a museum that has received a grant from the Institute within two years of application.

(c) *Applicability of other regulations.* The following sections in part 1180 do apply to grants for training and implementation under this subpart: §§ 1180.3(d), 1180.4, 1180.5 (c) through (e), 1180.6, 1180.10, 1180.11 (a) and (b), 1180.16(b), 1180.30 through 1180.34, 1180.36, 1180.37, 1180.39, 1180.42 through 1180.44, 1180.47, 1180.48, 1180.51 through 1180.57, part 1183, part 1185.

(d) *Application requirements.*

(1) An applicant under this subpart must submit an application in such time and such manner, and containing such information, as requested by the Institute.

(2) An applicant must submit with its application financial information for its most recently completed fiscal year for which satisfactory information is available and projected financial information for the fiscal year(s) that includes the time of the grant period.

(e) *Procedures and criteria for review of applications.*

(1) To evaluate applications and determine the amount of their awards, the Institute rates competitive applications under the criteria stated in paragraph (e)(2) of this section. Normally, these applications are evaluated by field reviewers, panels of experts, or both. The director may also use technical experts in the review of applications.

(2) This paragraph sets forth the criteria the Institute uses in evaluating and reviewing applications for technical training and implementation grants under this subpart. Evaluators are instructed to use only these criteria in the evaluation of these applications.

(i) Does the museum demonstrate its importance to the community it serves?

(ii) Is the type of training requested appropriate to the purpose or mission of the museum?

(iii) Are the costs requested to obtain the training reasonable and necessary?

(iv) Is the training needed at the museum?

(v) Is the staff member(s) (paid or volunteer) identified to receive the training the appropriate person(s) within the museum's organizational structure?

(vi) Does the individual(s) identified for training demonstrate at least a two-year commitment to the museum field?

(vii) Does the museum demonstrate a commitment to implement the training?

(f) Allowable costs.

(1) A museum may use a grant under this subpart for expenses to obtain training in areas of museum operations and for activities to implement the training.

(2) Funds may be used to pay for registration or tuition fees for training courses or workshops. (Individual(s) may use the grant funds to pay for a course that is part of a degree-granting program only for non-credit such as to audit the course.) Funds are generally not intended to support attendance at association annual meetings unless a specific training session or workshop is part of the meeting (or as a pre or post conference activity).

(3) Funds may be used for travel to and from training activities and expenses incurred during travel, such as housing and meals.

(4) Funds may be used to purchase instructional materials.

(5) Funds may not be used to pay the salary of the person(s) receiving the training. The time the staff member(s) expends to obtain the training and to implement the training is considered a matching, in-kind contribution to the grant activities.

(6) Funds may not be used for consulting fees. (In special cases where training is not available otherwise, the Institute may consider an individually designed training agenda that includes the use of a consultant clearly serving as a trainer to the applicant in specific areas of museum operations.)

(7) Funds may be used to purchase supplies, materials, and equipment for areas of museum operations for which training was received.

(8) Funds may support additional travel as needed to implement training (e.g. travel to libraries, archives, etc. to document collections).

(g) *Conditions of participation.* Following the completion of the training activity the museum must submit an implementation plan to the Institute for review before implementation funds are released. The implementation must indicate the time frame for implementation activities, the personnel involved, the activities to be completed, where the activities will take place, and the costs for implementing the plan.

(h) *Form of assistance; limitation of amount.*

(1) The Director makes payments to a museum under this subpart in advance.

(2) The amount of the grant to a museum will be determined by the Director, in accordance with the policy direction of the Board, regarding the maximum amount available for each part of the grant. The amount of the grant will be subject to the availability of funds.

(i) *Reporting requirements.* The museum receiving a grant for training and implementation under this subpart must submit a final financial and narrative report that evaluates the success of the applicant in meeting the stated goals and any plans to continue activities in the area of training.

(j) *Limitation on number of applications.* A museum may submit only one application for each deadline.

(k) *Duration of grant.*

(1) Grants made under this subpart generally permit the grantee to use the funds for a period of up to 24 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated.

(2) If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

Linda Bell,

Acting Director.

[FR Doc. 93–22639 Filed 9–16–93; 8:45 am]

BILLING CODE 7036–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 91–346, FCC 93–380]

Intelligent Networks

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking addresses third party access to local exchange carrier (LEC) intelligent networks. Mediated access means that a third party can gain access to the LEC network for limited purposes, but is prevented from engaging in exercises that might compromise network reliability. The notice proposes that mediated access be serially implemented. It proposes to begin with access at the service management system, and then to examine whether such access should be offered at centralized databases, and finally at the switch. The notice is a first step toward ensuring the development and deployment of interfaces needed to facilitate secure, cost-effective third party access to LEC IN capabilities that will foster the open evolution of the public switched network.

DATES: Comments must be filed by November 1, 1993. Reply comments are due by December 1, 1993.

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

FOR FURTHER INFORMATION CONTACT: Marian Gordon, Common Carrier Bureau, (202) 632–1294.

SUPPLEMENTATY INFORMATION:

Background

In 1991, the Commission initiated a Notice of Inquiry to open public debate on the interrelationship of Open Network Architecture (ONA) with emerging network design. 56 FR 65721 (December 1991). In the inquiry, the Commission sought to explore ways in which future local exchange networks could be developed that would be as open, responsive, and procompetitive as possible, consistent with other public interest goals, such as ensuring network reliability and avoiding the imposition of uneconomic costs.

Summary of Notice of Proposed Rulemaking

This is a summary of the Commission's Notice of Proposed Rulemaking, adopted August 3, 1993, and released August 31, 1993. The full text of this Commission item is available for inspection and copying during normal business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1991 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, 2100 M Street, NW., suite 140, Washington, DC 20037.

The Commission has proposed that mediated access to Tier 1 LEC Intelligent Networks be made available to third parties. Mediated access means that a third party can gain access to the LEC network for limited purposes, but is prevented from engaging in exercises that might compromise network reliability.

The Committee has proposed to require that Tier 1 LECs implementing intelligent networks offer third parties mediated access to the intelligent network through LEC Service Management Systems twelve months from the release of an Order requiring such access. Mediated access through LEC Service Management Systems appears to offer third parties new flexibility for service creation, and could be especially valuable to smaller third parties with limited resources and technological sophistication. In addition, it appears to pose minimal risk to network reliability.

The Commission also proposed to pursue serial implementation of mediated access, beginning with access at the Service Management System, followed by mediated access at centralized databases, and then at the switch. For each implementation step, the Commission seeks to generate specific information on the technical feasibility of providing third parties access to IN capabilities, as well as the implications of such access for network reliability.

Finally, the Commission has proposed to encourage market trials to learn more about third party demand for open access to IN and how such access might lead to new service applications. As the cost of developing the means for third party IN access could be quite high, such information appears important in assessing whether potentially sizable investments in opening intelligent networks to third parties are justified on public policy grounds.

Ordering Clause

Pursuant to sections 1, 4, 201–205, and 218 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 201–205, 215, 218, the Commission gives notice of the proposed regulatory changes described above.

List of Subjects in 47 CFR 64

Communications common carriers, Computer technology, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–22687 Filed 9–16–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. MC–93–21]

RIN 2125–AD18

Parts and Accessories Necessary for Safe Operation; Protection Against Shifting or Falling Cargo

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Commercial Vehicle Safety Alliance (CVSA) has petitioned the FHWA to replace the current static breaking strength requirement for cargo tiedown assemblies with a working load limit requirement. The FHWA is proposing to amend Securement systems, of the Federal Motor Carrier Safety Regulations (FMCSRs). The proposed amendment would require the aggregate working load limit of the tiedown assemblies used to secure an article against movement in any direction to be at least ½ the weight of the article secured. In addition, a table of working load limits would be added to provide motor carriers with a means of determining the number of tiedown assemblies required.

DATES: Written comments must be received on or before November 1, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–93–21, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Standards, HCS–10, (202) 366–2981; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1971, the FHWA published the final rule on safe loading of motor vehicles (36 FR 18862). The final rule required the use of tiedown assemblies having, either individually or in the aggregate, a minimum static breaking strength at least 1½ times the weight of the articles they secure. Petitions to change the rule were soon submitted, however. The petitioners requested that the rule be replaced with a requirement that the aggregate working load limit be equal to the weight of the article being secured. Several of the petitioners indicated that the reference to static breaking strength was inappropriate when applied to chain. Chain is sold on the basis of working load limits, which are approximately one-fourth of the minimum static breaking strength and one-half of the Proof Test (applied to a product to determine manufacturing defects). This provides a safety factor of 4 to 1 for most grades and types of chain. The FHWA therefore replaced the

breaking strength provision with a requirement that the working load limit for tiedown assemblies be equal to the weight of the article being secured (37 FR 12640; June 27, 1972).

In response to a petition for reconsideration from the American Trucking Associations (ATA), the FHWA published an NPRM requesting comments on the minimum strength requirements on November 25, 1972 (37 FR 25053). The ATA argued that the reference to aggregate rated working load called for much stronger tiedown devices than necessary to secure the cargo. The ATA believed that a length of chain complying with the aggregate rated working load criterion would be at least four times as strong as one that complied with the breaking strength criterion. The ATA also indicated that the use of working load was inappropriate as the standard for assemblies constructed of materials other than chain and that there were no "universally accepted industrial standards for rating working loads of equipment used to tie down cargo * * *."

All of the commenters to the November 25, 1972, NPRM supported the use of breaking strength instead of working load as the criterion for tiedown assemblies. The FHWA therefore amended the rule on the minimum strength of tiedown assemblies on March 29, 1973 (38 FR 8162). The amendment required the aggregate static breaking strength of the tiedown assemblies used to secure an article against movement in any direction to be 1½ times the weight of the article. Under the amended rule, chain used as a component of a tiedown assembly had to conform to the requirements of the National Association of Chain Manufacturers (NACM), "Welded Chain Specifications," which are applicable to all types of chain, while steel strapping had to conform to Federal Specification No. QQ–S–781.

CVSA Petition

On October 29, 1990, the CVSA petitioned the FHWA to change the criterion from "static breaking strength" to "working load limit." The CVSA contends the static breaking strength of a tiedown assembly is a rating that incorporates no safety factor, though the rule itself does include such a factor. The CVSA also believes the use of working load limits will make the tiedown regulations easier to understand, use, and enforce. The petitioner contends that "working load limit" is the strength criterion commonly used by the chain, cordage, wire rope, and web sling industries and that the term is widely known in the trucking industry. The use of the working load limit would thus promote direct correlation between the rule and the capabilities labeled on or indicated by load securement equipment.

The CVSA proposes that the first sentence of § 393.102(b) be amended to read "Except for integral securement devices * * * the aggregate working load limit of the tiedown assemblies used to secure an article against movement in any direction must be at least ½ times the weight of that article." Since the minimum working load limit would be ½ the weight of the article and not 1½ times the weight of the article, the proposed change from static breaking strength to working load would not increase or decrease the number of tiedown assemblies required.

The working load limit of a tiedown assembly is generally between ¼ and ⅓ of the static breaking strength of the tiedown. If the working load is ⅓ of the static breaking strength, the CVSA proposal is equal to the current rule. Where the working load limit is ¼ of the static breaking strength, the number of tiedown assemblies required will generally be equal to the current rule after rounding-up to an integer value.

In considering the CVSA petition, the FHWA reviewed the June 27, 1972, amendment allowing the use of working load limits in the tiedown assembly strength requirements (37 FR 12640), and the March 29, 1973, decision to return to static breaking strength (38 FR 8162). The FHWA believes the concerns raised during the previous efforts to use working load limits are no longer at issue. The CVSA petition proposes the same number of tiedown assemblies as required by the current rule. The strength of chain is generally expressed by the working load limit, and industry standards for determining working load limits for other tiedown assembly components are more uniform than the standards of 20 years ago. In addition, the CVSA petition includes tables of working load limits for chain, synthetic webbing, wire rope, and cordage (fiber rope) which the FHWA proposes to include in § 393.102.

The FHWA proposes to include requirements that chain, webbing, wire rope, and cordage used by motor carriers meet tiedown industry manufacturing standards. These industry standards would be incorporated by reference into § 393.102. With regard to steel strapping, the FHWA is proposing that Federal Specification No. A–A–880, Strapping, Steel Flat and Seals, (May 13, 1980) be incorporated by reference. Currently § 393.102 references Federal Specification No. QQ–S–781 which has been cancelled. The FHWA believes it is necessary to update its requirements for steel strapping used in cargo securement and that Federal Specification No. A–A–880 is an appropriate standard.

The FHWA proposes to create a new section, § 393.7, Matter incorporated by reference, to provide the language of incorporation required by 1 CFR part 51, as well as to include information on the availability of documents incorporated by reference. After review of the comments to this rulemaking, and a determination that the incorporation by reference is necessary for the final rule, the FHWA would submit the appropriate documents to the Director of the Federal Register for approval in accordance with 5 U.S.C. 522(a) and 1 CFR part 51. Upon approval of the Director of the Federal Register, the FHWA would incorporate these documents in § 393.102, and include information on the availability of the document in § 393.7(b).

Deletion of Effective Date From § 393.102

In addition to addressing the CVSA petition, the FHWA proposes to delete § 393.102(g) Effective date, which states "this section is effective on October 1, 1973." That date has passed, and the FHWA does not believe the proposed amendment will require inclusion of the effective date in § 393.102.

Request for Public Comments

The FHWA requests public comment on the proposed regulations. Although the CVSA asked the FHWA to include a requirement that tiedown assembly materials be marked with the working load limit, the proposed regulatory language does not address this issue. The FHWA seeks comments as to whether a requirement that tiedown assembly materials be marked with a working load limit is necessary. Would a requirement that the chain, webbing, wire rope, and cordage used by motor carriers meet the tiedown industry manufacturing standards be sufficient? Are the tiedown assembly industry standards on markings adequate?

The FHWA notes that the working load limits in the Cordage Institute's standards are not equal to ⅓ of the breaking strength. The working load limits for cordage vary between 1/10 and 1/7 of the breaking strength. If cordage is used to secure cargo, motor carriers would have to use more than twice as much cordage to satisfy § 393.102(b). The FHWA requests comments on the extent to which motor carriers use cordage to secure cargo, the types of

cargo secured by cordage, and the economic impact the proposed change would have on such motor carrier operations.

In addition, the wire rope strength ratings in the Wire Rope Technical Board's standards do not provide the working load limits for wire ropes. The standards provide the "nominal strength" for different types of wire rope. The CVSA's petition proposed that the working load limit be ¼ of the nominal strength (or the nominal strength multiplied by a design factor of ⅓ and the "termination efficiency," 0.75). The FHWA requests comments on the best method for determining the working load limit for wire rope.

The FHWA is particularly interested in comments from motor carriers as to whether the proposed amendment would help in determining the number of tiedown assemblies required to secure cargo. Commenters are encouraged to discuss any difficulties they may experience in understanding or applying the proposed requirements and recommendations for additional information (such as working load limits for steel strapping) to be included in the tables of working load limits.

Rulemaking Analysis and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has considered the impact of this document and has determined that it is not a major rulemaking action within the meaning of Executive Order 12291 and not a significant rulemaking under the regulatory policies and procedures of the Department of Transportation. The proposed rulemaking would amend § 393.102(b) of the Federal Motor Carrier Safety Regulations by requiring that the aggregate working load limits of the tiedown assemblies used to secure cargo be at least ½ times the weight of the article being secured. The total number of tiedown assemblies required by the proposal would generally be the same number required under the current rule. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has evaluated the effects of this rulemaking on small entities. As previously stated, the proposed rulemaking would amend § 393.102(b) of the Federal Motor Carrier Safety Regulations by requiring that the aggregate working load limits of the tiedown assemblies used to secure cargo be at least ½ times the weight of the article being secured. The total number of tiedown assemblies required by the proposal would generally be the same number required under the current rule. Based on the evaluation, the FHWA certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

The proposal in this document does not contain information collection requirements (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

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

Regulatory Identification Number

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

List of Subjects in 49 CFR Part 393

Highway safety, Incorporation by reference, Motor carriers, Motor vehicle safety.

Issued on: September 13, 1993.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is proposing to amend part 393 of title 49, Code of Federal Regulations, as set forth below.

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

1. The authority citation for 49 CFR part 393 is revised to read as follows:

Authority: 49 U.S.C. 3102; 49 U.S.C. app. 2505; 49 CFR 1.48.

2. A new § 393.7 is added to subpart A of part 393 to read as follows:

§ 393.7 Matter incorporated by reference.

(a) *Incorporation.* Part 393 includes references to certain matter or materials. The text of the materials is not included in the regulations contained in part 393. The materials are hereby made a part of the regulations in part 393. The Director of the Federal Register has approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For materials subject to change, only the specific version approved by the Director of the Federal Register and specified in the regulation are incorporated. Material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

(b) *Availability.* The materials incorporated by reference are available as follows:

(1) [Reserved]

(2) Federal specifications of the General Services Administration. Information and copies may be obtained by writing to: General Services Administration, Specifications Office, Seventh and D Streets, SW., Washington, DC 20407.

(3) Specifications of the National Association of Chain Manufacturers. Information and copies may be obtained

by writing to: National Association of Chain Manufacturers, P.O. Box 3143, York, Pennsylvania 17402–0143.

(4) Specifications of the Web, Sling and Tiedown Association. Information and copies may be obtained by writing to: Web, Sling and Tiedown Association, Inc., 710 East Ogdon Avenue, suite 113, Naperville, Illinois 60563.

(5) Manuals of the Wire Rope Technical Board. Information and copies may be obtained by writing to: Wire Rope Technical Committee, P.O. Box 849, Stevensville, Maryland 21666.

(6) Standards of the Cordage Institute. Information and copies may be obtained by writing to: Cordage Institute, 42 North Street, Hingham, Massachusetts 02043.

(7)–(9) [Reserved]

(10) All of the materials incorporated by reference are available for inspection at:

(i) The Department of Transportation Library, 400 Seventh Street, SW., Washington, DC 20590 in room 2200. These documents are also available for inspection and copying as provided in 49 CFR part 7, appendix D; and

(ii) The Office of the Federal Register in Washington, DC.

3. Section 393.102 is amended by revising paragraph (b) and removing paragraph (g) as follows:

§393.102 Securement systems.

* * * * *

(b) *Tiedown assemblies.* Except for integral securement devices of containers designed for the transportation of containerized, intermodal cargo which conform to the rules in § 393.100(e), the aggregate working load limit of the tiedown assemblies used to secure an article against movement in any direction must be at least ½ times the weight of the article.

(1) *Steel strapping.* Steel strapping used as a component of a tiedown assembly must conform to the requirements of Federal Specification No. A–A–880, Strapping, Steel Flat and Seals, May 13, 1980. (See § 393.7(b) for information on the availability of this document.) Steel strapping which is not marked with a working load limit shall be considered to have a working load limit equal to ⅓ of the minimum breaking strength listed in the specification. Steel strapping that is one inch wide or wider must have at least two pairs of crimps in each seal and when an end-over-end lap joint is formed, it must be sealed with at least two seals.

(2) *Chain.* Chain used as a component of a tiedown assembly must conform to the requirements of the June 15, 1990, edition of the National Association of Chain Manufacturers' Welded Steel Chain Specifications applicable to all types of chain. (See § 393.7(b) for information on the availability of this document.)

(3) *Webbing.* Webbing used as a component of a tiedown assembly must conform to the requirements of the 1991 edition of the Web, Sling and Tiedown Association's Recommended Standard Specification for Synthetic Webbing Tiedowns. (See § 393.7(b) for information on the availability of this document.)

(4) *Wire rope.* Wire Rope used as a component of a tiedown assembly must conform to the requirements of the August 1981 edition of the Wire Rope Technical Board's Wire Rope Users Manual. Wire rope which is not marked with a working load limit, shall be considered to have a working load limit equal to ¼ of the nominal strength listed in the Users Manual. (See § 393.7(b) for information on the availability of this document.)

(5) *Cordage.* Cordage, either synthetic or natural, used as a component of a tiedown assembly, must conform to the applicable Cordage Institute rope specifications listed: C1, Double Braided Nylon Rope Specifications, DBN–1/84; SRS–1, Sisal Rope Specifications, Three-Strand Laid Construction, May, 1979; PRS–1, Polyester Rope Specifications, Three- and Eight Strand Standard Construction, May, 1979; MRS–1, Manila Rope Specifications, Three-Strand Laid Construction, May 1979; NRS–1, Nylon Rope Specifications, Three- and Eight-Strand Standard Construction, May 1979; P/PRS–1, Polypropylene Rope Specifications, Three- and Eight-Strand Standard Construction, May, 1979; CRS–1, Polyester/Polypropylene Composite Rope Specifications, Three- and Eight-Strand Standard Construction, May 1979. (See § 393.7(b) for information on the availability of these documents.)

(6) *Table of working load limits.* The working load limits listed below are to be used when the tiedown material is not marked with the working load limit. Tiedown materials marked for working load limits which differ from the table, shall be considered to have a working load equal to the value for which they are marked.

TABLE OF WORKING LOAD LIMITS (WLL)

Chain WLL in pounds (kg)				
Size Inch (mm)	Grade 3 Proof coil	Grade 4 High test	Grade 7 Transport	Grade 8 Alloy
¼ (7)	1300 (580)	2600 (1180)	3150 (1430)	3500 (1950)
5/16 (8)	1900 (860)	3900 (1770)	4700 (2130)	5100 (2310)
⅜ (10)	2650 (1200)	5400 (2450)	6600 (2990)	7100 (3200)
7/16 (12)	3500 (1590)	5800 (2630)	8750 (3970)	.....
½ (13)	4500 (2040)	9200 (4170)	11300 (5130)	12000 (5400)
⅝ (16)	6900 (3130)	11500 (5220)	15800 (7170)	18100 (8200)
Chain marks	PC	HT	T	A
	3	4	7	8
	30	40	70	80

Synthetic webbing WLL		Wire Rope (6 X 37, fiber core) WLL		Cordage (manila rope) WLL	
Width Inch (mm)	WLL pounds (kg)	Diameter Inch (mm)	WLL pounds (kg)	Diameter Inch (mm)	WLL pounds (kg)
1¾ (45)	1750 (795)	¼ (7)	1400 (640)	⅜ (10)	122 (60)
2 (50)	2000 (910)	5/16 (8)	2100 (950)	7/16 (11)	176 (80)
3 (75)	3000 (1360)	⅜ (10)	3000 (1360)	½ (13)	264 (120)
4 (100)	4000 (1815)	7/16 (11)	4100 (1860)	⅝ (16)	496 (220)

Synthetic webbing WLL		Wire Rope (6 X 37, fiber core) WLL		Cordage (manila rope) WLL	
Width Inch (mm)	WLL pounds (kg)	Diameter Inch (mm)	WLL pounds (kg)	Diameter Inch (mm)	WLL pounds (kg)
		½ (13)	5300 (2400)	¾ (20)	695 (310)
		⅝ (16)	8300 (3770)	1 (25)	1160 (520)
		¾ (20)	10900 (4940)		
		⅞ (22)	16100 (7300)		
		1 (25)	20900 (9480)		

* * * * *

[FR Doc. 93–22793 Filed 9–16–93; 8:45 am]

BILLING CODE 4910–22–P

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1160, 1162, and 1166 [1]

[Ex Parte No. 55 (Sub-No. 86)]

Revision of Licensing Forms and Corresponding Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Commission proposes additional revisions to the motor property carrier licensing application form (Form OP–1(T)) previously proposed at 57 FR 37761 (August 20, 1992). This supplemental proposal would revise the commodity descriptions used to define authority to transport certain groups of hazardous materials and would implement a compliance certification requirement for applicants that seek to exclude all hazardous materials from their operating authorities.

These supplemental revisions are intended to reinforce the Commission's interest in the safety fitness and insurance compliance profiles of the motor property carriers it regulates and to accommodate recent revisions to the U.S. Department of Transportation's (DOT) commodity classification regulations.

DATES: Comments are due October 18, 1993.

ADDRESSES: Send comments (an original and 10 copies), referring to Ex Parte No. 55 (Sub-No. 86), to Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins O'Malley or Beryl Gordon (202) 927–5610 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: In August 1992, the Commission issued a notice of proposed rulemaking (NPR) in this proceeding, inviting public comments on a proposal to replace the comprehensive Form OP–1 licensing application with six transportation mode-specific application forms and to adopt corresponding revisions to the Commission's licensing regulations. In particular, we proposed to spell out the safety compliance obligations of carriers that have not yet received a safety fitness rating from DOT or may never receive such a rating because they are exempt from DOT's safety oversight. We have evaluated the comments received in response to the NPR and intend to adopt the licensing forms and regulatory changes, including those changes related to safety fitness certification, substantially as proposed.

In the interim, however, several matters have emerged that can most effectively be addressed by further revisions to the proposed Form OP–1(T) for motor property carrier authority as discussed below. None of the supplemental revisions proposed here requires further amendment to the regulations set forth in the prior NPR.

In late 1990 and 1991, DOT adopted significant revisions to its Hazardous Materials Regulations at 49 CFR parts 171 through 180.[2] As pertinent to this proceeding, effective October 1, 1993, the revised DOT regulations will reclassify certain commodities in a manner that will place them in different hazardous materials categories and thus change their required minimum levels of public liability insurance coverage. To the extent that the reclassifications affect minimum levels of financial responsibility required to transport certain commodities, they generally provide that: (1) Some commodities previously classified as non-hazardous (requiring $750,000 in public liability coverage) will be considered "consumer-type" hazardous materials (requiring $1,000,000 in public liability coverage); and (2) some commodities previously classified as "consumer-type" hazardous materials will be considered "ultra-hazardous" materials (requiring $5,000,000 in public liability coverage).

Since the initial NPR was issued in this proceeding last August, the Commission has received numerous inquiries from existing carriers seeking advice on how, if at all, they will be able to adjust their motor property carrier operating authorities to reflect the DOT commodity reclassifications and to ensure that they can continue to transport the reclassified commodities. Typically, these inquiries have involved motor carriers that have either all or limited classes of hazardous materials excluded from their operating authority and, as a result of DOT's commodity reclassifications, soon will find themselves in a situation where their authorities no longer reflect the full range of commodities they actually transport.

The concerns raised by carriers affected by the impending commodity reclassifications also have suggested the need for the Commission to revisit the issue of commodity classifications as used in standard operating authority service descriptions—particularly the standard hazardous materials service descriptions. Currently the Commission follows a three-tiered, commodity-based hazardous materials licensing policy that reflects the three minimum levels of public liability coverage prescribed in the DOT and Commission insurance regulations at 49 CFR 387.9 and 1043.2, respectively.

This licensing policy involves the use of complex, commodity-specific descriptions to define service to those "consumer hazardous" commodities that require public liability coverage of $1 million. Carriers that opt to service

[1] As originally announced in the notice of proposed rulemaking in this proceeding, 57 FR 37761 (August 20, 1992), this proceeding also embraced revisions to the Commission's List of Forms at 49 CFR part 1003 to reflect conversion to the mode-specific application forms proposed here. In List of Forms, 8 I.C.C.2d 770 (1992), however, the Commission subsequently discontinued publication in the Code of Federal Regulations of the List of Forms. We have revised the scope of this proceeding accordingly.

[2] Docket Nos. HM–181, *et al.*, Performance-Oriented Packaging Standards; Changes to Classification, Hazard Communication, Packaging and Handling Requirements Based on UN Standards and Agency Initiative, 55 FR 52402 (December 21, 1990); revisions and response to petitions for reconsideration, 56 FR 66124 (December 20, 1991).

such commodities—but to exclude "ultra-hazardous" commodities from their authorities—receive a commodity-specific service description with the standard exclusion: "except classes A and B explosives; Poison A; liquefied compressed gas or compressed gas; highway route controlled quantity radioactive materials as defined in 49 CFR 173.403; or hazardous substances transported in cargo tanks, portable tanks, or hopper type vehicles with capacities in excess of 3,500 water gallons."

This description originally was developed to conform to the Commission's insurance regulations at 49 CFR 1043.2(b)(2) which, in turn, track DOT's prescribed schedule of insurance limits. Despite the consistency of this approach, the referenced commodity description has proved cumbersome and confusing to many applicants. In any event, this description, as of October 1, 1993, will present the further disadvantage of not accurately reflecting the financial responsibility levels associated with DOT's reclassified commodity categories.

To ensure that the Commission's hazardous materials commodity descriptions continue to reflect the range of commodities carriers may transport and the corresponding levels of public liability coverage that carriers must maintain, we propose to replace the commodity-based references in certain hazardous materials service descriptions with a more generic reference to the minimum levels of public liability coverage that pertain to various hazardous materials service categories. This will also ensure that the Commission's regulations are consistent with DOT's revised commodity categories.

The proposal also would require applicants that seek to exclude all hazardous materials from their commodity service descriptions to certify that they will not transport any commodities requiring public liability coverage in excess of the minimum $750,000 level as provided by Commission and DOT regulations governing financial responsibility.

Under the proposed revised approach, applicants for motor property carrier operating authority would be asked to specify the extent, if any, to which they intend to transport hazardous materials. Applicants for general commodities authority, for example, would be asked to indicate (through use of a check box) the hazardous materials exclusion appropriate to their operations and would be apprised specifically of the corresponding public liability obligation.

- General commodities (except hazardous materials).

Note: Requires $750,000 in public liability coverage and granted only if the applicant expressly certifies at [prescribed portion of this form] that it will not transport any hazardous materials.

- General commodities.

Note: Requires $5,000,000 in public liability coverage.

- General commodities (except those commodities requiring minimum levels of financial responsibility of $5,000,000 under the regulations at 49 CFR 387.9 and 49 CFR 1043.2(b)(2) as of October 1, 1993).

Note: Requires $1,000,000 in public liability coverage.

Similarly, those applicants that define their service descriptions in terms of more limited standard transportation commodity code (STCC) groups or other commodity descriptions also will be required specifically to designate the extent, if any, to which they intend to transport hazardous materials and will be apprised of their corresponding public liability coverage obligations on the application form.

This revised approach to defining hazardous materials service potential would eliminate use of cumbersome, commodity-based references in operating authorities. It would also ensure that commodity service descriptions are less vulnerable to being rendered obsolete or ineffectual by subsequent DOT commodity reclassifications or other regulatory changes. Further, use of October 1, 1993, as a base reference date in those commodity descriptions involving "consumer-type" hazardous materials (requiring $1,000,000 in public liability coverage) would render such authorities sufficiently flexible to accommodate any subsequent revisions to either DOT or the Commission's insurance regulations.

In addition, we anticipate that the revised hazardous materials commodity descriptions will encourage applicants to acquire a full understanding of the financial responsibility limits and safety compliance requirements associated with their proposed services before developing their requests for authority.

To further assist applicants in understanding their obligations to maintain adequate levels of financial responsibility under the revised hazardous materials commodity descriptions proposed, the revised Form OP–1(T) will include the cautionary advice:

Most general commodities operations or services to STCC groups involve the transportation of at least some commodities classified by DOT as "consumer-type" hazardous materials that require a minimum of $1,000,000 in public liability coverage. It is highly unlikely that a carrier with general commodities authority or authority to serve one or more STCC groups realistically could exclude all hazardous materials from its service range.

This advisory would be cross-referenced with a certification provision applicable to those applicants that nonetheless seek to exclude all hazardous materials from their authorities. The certification, requiring an affirmative response from all such applicants, would provide:

If applicant seeks to and properly can restrict its operations against service to *all* hazardous materials (a limited service range requiring a minimum level of public liability coverage—$750,000), you must respond affirmatively to the following certification:

Under the authority here or any operating authority already held, applicant will not transport any commodities requiring public liability coverage in excess of $750,000 as provided by the Interstate Commerce Commission and U.S. Department of Transportation regulations governing financial responsibility (codified respectively at 49 CFR 1043.2 and 49 CFR 387.9).

_____YES

(**Note:** If applicant requires additional information to determine whether the commodities it intends to serve are subject to financial responsibility requirements in excess of the minimum levels set forth in ICC and DOT regulations, refer to the provisions governing hazardous materials in the Federal Motor Carrier Safety Regulations at 49 CFR parts 170 through 189, particularly the Hazardous Materials Table at 49 CFR part 172, or contact DOT at (202) 366–6121.)

The proposed revised approach to defining hazardous materials, as well as the accompanying clarifying and cautionary certification, should encourage awareness among applicants concerning the Federal Motor Carrier Safety Regulations and the hazardous materials classification standards—both implemented and administered by DOT. Consistent with this goal, the revised application will include expanded references to DOT resources that can assist applicants in determining the hazardous classification of the commodities they intend to transport and in understanding their corresponding safety compliance obligations with respect to such matters as public liability coverage limits, annual registration requirements, and

future hazardous materials permitting obligations.[3]

We anticipate that this more extensive cross-referencing of hazardous materials safety compliance obligations will reinforce the collaborative roles of the Commission and DOT in overseeing the safe operation of those hazardous materials carriers they regulate respectively. We further anticipate that the proposed revised hazardous materials commodity descriptions and the measures to ensure financial responsibility and general safety compliance will encourage a more focused understanding among applicants of their involvement in and obligations under hazardous materials transportation.

The Commission also announces implementation of a petition mechanism in response to the specific concerns of those existing carriers that will find their authorities no longer adequate to provide for the full range of their transportation services after the DOT reclassifications take effect October 1, 1993. Effective September 1, 1993, the agency's Office of Public Assistance will have available a suggested format for petitions to modify authorities that will be affected by the impending commodity reclassifications. Such petitions will be entertained without a filing fee and will be processed on an expedited basis by the Commission.

Most carriers seeking to update their authorities to conform with commodity reclassifications will need to either: (1) Remove a hazardous materials exclusion or partial exclusion (in situations where a particular commodity transported has been moved into a classification requiring higher financial responsibility requirements); or (2) move from a full hazardous materials exclusion to a partial exclusion (allowing for service to "consumer-type" hazardous materials that previously were classified as non-hazardous). Carriers seeking guidance in preparing petitions to modify their authorities in response to the commodity reclassifications may contact the Office of Public Assistance at (202) 927–7597.

We emphasize that this simplified petition process is available only to those carriers affected by DOT's commodity reclassification measures, and is not to be used as a generic device for adjusting the hazardous materials scope of operating authorities. As always, existing carriers that may seek to revise the hazardous materials service descriptions in their authorities to respond to new service opportunities or expanded markets can do so using the standard licensing procedures.

Environmental and Energy Considerations

We preliminarily conclude that this proposal will not significantly affect either the quality of the human environment or the conservation of energy resources. We specifically invite parties to comment on these issues.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), the Commission is required to examine specifically the impact of a proposed action on small businesses and small organizations. In the prior NPR, 57 FR 37761 (August 20, 1992), we preliminarily concluded that the proposed revision to the licensing forms and corresponding changes to the application regulations would have a positive impact on such entities. The revisions to proposed Form OP–1(T) recommended here are not expected to alter in any way the impact of this proposed action on small businesses or small organizations. For reasons amplified below, however, we revise the preliminary RFA conclusion to reflect a corrected understanding of how Commission actions should be assessed under RFA standards.

We continue to believe that the proposed revised application forms and corresponding regulations will result in significant cost savings, simplified administrative processes, and expedited licensing procedures. Each of these anticipated changes will inure to the benefit of all licensing applicants, a significant portion of which are small entities within the scope of the RFA. Under the RFA, however, a positive finding that a proposed or final rule is likely to have a significant economic impact on a substantial number of small entities should be made only if the involved action meets both the significance and substantiality tests of the standard. Further, a positive finding requires that the agency conduct and publish a formal regulatory flexibility analysis of its intended action.

Although we adhere to the view that the revised application format will benefit the large number of small businesses that are within the Commission's applicant pool, upon further evaluation we do not find that the economic impact on such entities of the simplified forms will be sufficiently significant to merit a positive RFA finding. Benefits associated with the more focused, more explanatory, mode-specific forms largely relate to administrative and interpretive savings intended to streamline the licensing process. The proposed revisions nonetheless will produce only incidental benefits to individual applicants that, given the breadth of operating authority typically granted by the Commission, are likely to file only a single licensing request in their commercial lifetime. Accordingly, a realistic assessment of the expected magnitude of this proceeding on small businesses compels us to revise our prior positive finding under the RFA and, instead, to conclude that our proposal—although beneficial from the perspective both of the Commission and the carriers we regulate—does not have the potential for significant economic impact contemplated by the RFA.

Pursuant to 5 U.S.C. 605(b), we, therefore, conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. No new regulatory requirements are imposed, directly or indirectly, on such entities. The purpose and anticipated effect of the revised application forms and corresponding rule revisions is to reduce regulatory burdens. The economic impact on small entities, if any, will be to reduce licensing costs, but is not likely to be significant within the meaning of the RFA. Because this represents a reversal of our prior preliminary RFA assessment, we specifically invite interested persons to comment on this matter as it relates to the proposed revised hazardous materials licensing policy announced here and all other aspects of this proposal.

Paperwork Reduction Analysis

Our prior notice of proposed rulemaking in this proceeding was submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). On September 18, 1992, OMB approved use of the six revised application forms through September 30, 1995. OMB's notice of approval

[3] As provided in the Hazardous Materials Transportation Uniform Safety Act of 1990, Pub. L. 101–615 (HMTUSA), DOT has implemented an annual registration and fee system applicable to any person who transports or causes to be transported a fairly broad range of specified hazardous materials. Docket No. HM–208, Hazardous Materials Transportation; Registration and Fee Assessment Program, 57 FR 30620 (July 9, 1992); clarification, 57 FR 33416 (July 28, 1992); editorial revisions, 57 FR 37900 (August 21, 1992); further interpretation, 57 FR 48739 (October 28, 1992); technical revision, 58 FR 12543 (March 5, 1993).

In addition, DOT has proposed a hazardous materials permitting requirement, also mandated by HMTUSA, applicable to motor carriers transporting the more volatile categories of hazardous materials. FHWA Docket No. MC–92–4, Federal Motor Carrier Safety Regulations; Transportation of Hazardous Materials, notice of proposed rulemaking, 58 FR 33418 (June 17, 1993).

indicated that use of the mode-specific application forms would result in an estimated savings of 18,490 reporting hours annually. This, in part, reflected our conclusion that the estimated burden hours for completing Form OP–1(T) would be reduced from 4 hours to 3 hours per filing.

The further revisions to Form OP–1(T) proposed here are not expected to affect this estimate in any way. To the extent that the revised hazardous materials commodity descriptions and expanded advisories on the proposed form will assist applicants in defining the scope of their operations and their corresponding compliance obligations, it is possible that the estimated burden hours may be even further reduced for some applicants.

In any event, this supplemental NPR will be submitted to OMB as an advisory measure. Inasmuch as the further revisions proposed here are not expected to affect the estimated burden hours in the OMB inventory, we will not seek further approval of Form OP–1(T). Nor will we seek extension of the authorization period for the proposed forms that concludes on September 30, 1995.

Supplemental comments concerning the accuracy of this burden estimate as it may be affected by the further revisions proposed here or suggestions for reducing the burden should be directed to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 3120–0079), Washington, DC 20503.

List of Subjects

49 CFR Part 1160

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Maritime carriers, Motor carriers.

49 CFR Part 1162

Administrative practice and procedure, Maritime carriers, Motor carriers.

49 CFR Part 1166

Administrative practice and procedure, Maritime carriers, Motor carriers.

It is ordered:

1. We invite the comments of interested persons on the proposed revisions to Form OP–1(T) as originally proposed in the notice of proposed rulemaking served August 19, 1992, as supplemented in this notice.

2. Comments are due October 18, 1993.

Decided: September 7, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22760 Filed 9–16–93; 8:45 am]

BILLING CODE 7035–01–P

Notices

Federal Register
Vol. 58, No. 179
Friday, September 17, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of loans to the Government of Poland ("Borrower") as part of A.I.D.'s development assistance program. The proceeds of these loans will be used to finance infrastructure and shelter projects for low-income families in Poland. At this time, the Government of Poland has authorized A.I.D. to request proposals from eligible lenders for a loan under this program of $10 Million U.S. Dollars (U.S. $10,000,000). The name and address of the Borrower's representative to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of Poland

Project: 180–HG–001—$10,000,000
Loan Guaranty No: 180–HG–001 A01
Attention: Ms. Malgorzata Bukowska, Ministry of Finance, Swietokrzyska 12, 00–916 Warsaw, Poland
Telefax No.: 48–2–226–6544 (preferred communication)
Telephone No.: 48–2–694–5250

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should submit their bids to the Borrower's representative by Tuesday, October 5, 1993, 12 noon Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Ms. Sonia Hammam, Regional Housing and Urban Development Officer, USAID/Warsaw, Box #5010, APO AE 09213–5010 (Street address: c/o American Embassy, Aleje Ujazdowskie 29/31, USAID/Warsaw, Poland) Telefax No.: 48–2–628–7486 (preferred communication) Telephone No.: 48–2–628–3041, Ext. 2091 or 48–2–625–0060

Mr. David Grossman/Mr. Peter Pirnie, Agency for International Development, Office of Housing and Urban Programs, PRE/H, room 401, SA–2, Washington, DC 20523–0214, Telex No.: 892703 AID WSA, Telefax No.: 202/663–2552 (preferred communication), Telephone No.: 202/663–2548/2530

For your information the Borrower is currently considering the following terms:

(1) *Amount:* U.S. $10 million.
(2) *Term:* 30 years.
(3) *Trust Structure:* The Government of Poland will not issue promissory notes evidencing the loan. In lieu of the issuance of promissory notes, the Government of Poland will enter into a loan agreement with the lender, which loan agreement will be deposited into a Trust held by The Riggs National Bank of Washington, DC. The Trust will issue Certificates evidencing interests in the loan agreement. The Certificates will be directly guaranteed by A.I.D. and will be freely transferable to lenders eligible to receive an A.I.D. guaranty.
(4) *Grace Period:* Ten years grace on repayment of principal. During grace period, semi-annual payments of interest only. Semi-annual payments of principal and interest over the remaining 20-year life of the loan on the basis of semi-annual equal payments of principal.
(5) *Interest Rate:* Variable interest rates are requested.
  (a) *Variable Interest Rate:* To be based on the 6-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to convert to fixed rate. A variable rate should be adjusted weekly.
(6) *Prepayment:*
  (a) Offers should include options for prepayment and mention prepayment premiums, if any.
  (b) Federal statutes governing the activities of A.I.D. require that the Borrower use an amount in local currency equivalent to the proceeds of A.I.D.-guaranteed loans to provide affordable shelter and related infrastructure and services to below median-income families. In the extraordinary event that the Borrower materially breaches its obligation to comply with this requirement, A.I.D. reserves the right, among its other rights and remedies, to accelerate the loan.
(7) *Fees:* Offers should specify the placement fees and other expenses, including A.I.D. fees, Paying and Transfer Agent fees, out of pocket expenses, etc. Lenders are requested to include all legal fees (including legal fees in connection with the establishment of the Trust described above) in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan.
(8) *Closing Date:* Estimated 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Mr. Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, room 401, SA–2,

Washington, DC 20523–0214, Telephone: 202/663–2530.

Dated: September 13, 1993.

Michael G. Kitay,

Assistant General Counsel, Bureau for Private Enterprise, Agency for International Development.

[FR Doc. 93–22749 Filed 9–16–93; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act; Proposed Revision of an Existing System of Records.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of proposed revision of an existing system of records.

SUMMARY: The U.S. Department of Agriculture is giving notice that it proposes to revise its Privacy Act System of Records, USDA/FNS–3, Claims Against Food Stamp Recipients—USDA/FNS–3.

DATES: This revision will become effective on November 16, 1993, unless modified by a subsequent notice to incorporate comments received from the public. To be assured of consideration, comments must be received by the contact person listed below on or before October 18, 1993.

ADDRESSES: Comments should be addressed to James I. Porter, Supervisor, Issuance and Accountability Section, State Administration Branch, Program Accountability Division, Food Stamp Program, 3101 Park Center Drive, Room 905, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Joseph M. Scordato, Food and Nutrition Service Privacy Act Officer, Room 308, 3101 Park Center Drive, Alexandria, Virginia 22302. Telephone (703) 305–2760.

SUPPLEMENTARY INFORMATION: On October 7, 1991 (at 56 FR 50552), the Food and Nutrition Service (FNS) published a Notice of a revision to the system of records entitled USDA/FNS–3, Claims Against Food Stamp Recipients. The revision was effective December 6, 1991. As discussed in the Notice, the system of records was revised in order to meet certain requirements for conducting a test of the effectiveness of referring recipient claims to the Internal Revenue Service (IRS) for offset against refunds of Federal income taxes. The public is referred to that Notice for a complete discussion of the system of records.

This Notice adds one routine use to USDA/FNS–3 and revised another routine use so that FNS can fully comply with an IRS requirement for agencies participating in the tax refund offset program. That requirement is to certify that none of the claims referred to the IRS for tax offset is collectible from current or past Federal or United States Postal Service (USPS) employees through salary offset pursuant to 5 U.S.C. 5514(a)(1). FNS will meet the IRS requirement by following a two-step process. First, claims submitted by State agencies for tax offset will be matched against Department of Defense (DoD) records of Federal (civilian and military) employees and USPS records of USPS employees. Second, the lists obtained from such matching will be used to delete the associated claims from lists of claims prior to actual referral to the IRS for tax intercept. FNS may also initiate additional actions to collect claims voluntarily through State agencies and from salaries of identified employees and as appropriate. In addition, this Notice clarifies that disclosure of an individual record from the system to a Congressional office is contingent on a written request from the individual.

This Notice makes several other revisions to the system of records related to the additional uses for the records. Two record source categories are added, DoD and the USPS. The public is also advised about an additional category of records, individuals' employing agencies (Federal and/or USPS), if any. Finally, because FNS anticipates that some records will be maintained on paper, this Notice revises the current system of records with respect to how records are stored and the safeguards for them.

Authority for salary offset is 5 U.S.C. 5514(a). FNS plans to test this procedure under authority of section 17(b) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2020(e)), and is incorporating appropriate instructions about this test in a separate Federal Register Notice.

Signed at Washington, DC, on September 9, 1993.

Mike Espy,

Secretary.

USDA/FNS–3

SYSTEM NAME:

Claims Against Food Stamp Recipients—USDA/FNS.

* * * * *

1. The following paragraph is amended by adding a new sentence following the first sentence to read as follows:

CATEGORIES OF RECORDS IN THE SYSTEM:

* * * The information in the system also includes identification of individuals' Federal and/or United States Postal Service (USPS) employing agencies, if any. * * *

* * * * *

2. The following paragraph is amended by redesignating current routine uses (2) and (3) as routine uses (3) and (4), respectively; by adding a new routine use (2); and by revising the newly redesignated uses (3) and (4). The new and revised uses and routine use (1), which is unchanged and is the only other routine use, read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the IRS for collection of claims from tax refunds; (2) referral to the Department of Defense (DoD) and the USPS to identify Federal and USPS employees owing claims, and to delete any such claims from lists of claims which will be used for Federal income tax refund offset. (3) Referral may be made to State agencies for such purposes as updating claims files, collecting claims, and for fiscal reporting. Referral may also be made to Federal agencies and the USPS for additional collection action. (4) 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 written request of the individual.

* * * * *

3. The following paragraph is amended by adding a new sentence to the end of the paragraph to read as follows:

STORAGE:

* * * Some records may also be maintained on paper.

* * * * *

4. The following paragraph is amended by adding a new sentence to the end of the paragraph to read as follows:

SAFEGUARDS:

* * * Paper records will be segregated and physically secured in locked cabinets.

* * * * *

5. The following paragraph is amended by adding a new sentence to the end of the paragraph to read as follows:

RECORD SOURCE CATEGORIES:

* * * Information in this system also comes from DoD and USPS files of individuals who are currently employed by or who are receiving pensions and

other payments from Federal agencies and the USPS.

[FR Doc. 93–22698 Filed 9–16–93; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AB43

Federal Subsistence Regional Advisory Councils; Meetings

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

DATES AND PLACES: Meetings of the Federal Subsistence Regional Advisory Councils (Councils) will be held at 9 a.m. on the dates and in each Alaska location as follows:

Region 1, Southeast—Sitka, Centennial Hall—10/7/93
Region 2, Southcentral—Anchorage, Holiday Inn—9/15/93
Region 3, Kodiak/Aleutians—Kodiak, Buskin River Inn—9/23/93
Region 4, Bristol Bay—Naknek, Bristol Bay Borough Assembly—10/1/93
Region 5, Yukon-Kuskokwim Delta—Bethel, KVNA Building—10/7/93
Region 6, Western Interior—McGrath, Takusko House—9/30/93
Region 7, Seward Peninsula—Nome, Bering Straits Boardroom—10/1/93
Region 8, Northwest Arctic—Kotzebue, AK Technical Center—9/24/93
Region 9, Eastern Interior—Fairbanks, Captain Bartlett Motel—10/7/93
Region 10, North Slope—Barrow, North Slope Borough Building—9/21/93

SUMMARY: This notice informs the public of forthcoming Council meetings. The public is invited to attend and participate in Council proceedings and provide comments to the Councils on upcoming subsistence matters.

SUPPLEMENTARY INFORMATION: Councils have been established in accordance with section 805 of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3115), and 36 CFR §§ 242.10 and 242.11 and 50 CFR §§ 100.10 and 100.11, to advise the Federal Government on matters related to the subsistence taking of fish and wildlife resources on public lands in Alaska. The Councils operate in accordance with the provisions of the Federal Advisory Committee Act.

The following agenda items will be discussed at Council meetings:

(1) Introduction of Council members and guests
(2) New business
  a. Election of officers
  b. Introduction of Council Charter
  c. Role of Councils in the Federal Subsistence Management Program
  d. Public comment period
  e. Identification of regional subsistence issues
  f. Development of proposals to change subsistence regulations for the taking of wildlife.

FOR FURTHER INFORMATION CONTACT: Interim Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Richard S. Pospahala, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503; telephone (907) 786–3447. For questions specific to National Forest System lands, contact Norman R. Howse, Assistant Director Subsistence, USDA, Forest Service, P.O. Box 21628, Juneau, Alaska 99802–1628, telephone (907)-586–8890.

Dated: September 3, 1993.

Ronald B. McCoy,

Interim Chair, Federal Subsistence Board.

[FR Doc. 93–22604 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–55–P

Forest Service

Southern Region; Exemption From Appeal of Salvage Timber Sale Project on the Daniel Boone National Forest, Berea Range District

AGENCY: Forest Service—USDA.

ACTION: Notice; exemption of decision from administrative appeal.

SUMMARY: Pursuant to 36 CFR 217.4(a)(11), the Regional Forester for the Southern Region has determined that good cause exists and notice is hereby given to exempt from administrative appeal the decision to salvage dead and dying trees that were blown down or heavily damaged by high winds accompanying severe thunderstorms on the Berea Ranger District of the Daniel Boone National Forest. If not salvaged quickly, these trees will be rendered unmerchantable as sawtimber and would present potential obstacles to fire control within an area of hazardous fire conditions.

EFFECTIVE DATE: September 17, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this exemption should be directed to Jean P. Kruglewicz, Southern Region, Forest Service—USDA, 1720 Peachtree Road NW., Atlanta, GA 30367 (404) 347–4867.

SUPPLEMENTARY INFORMATION: On June 4, 1993, a line of severe thunderstorms and high winds passed through the Berea Ranger District of the Daniel Boone National Forest. Approximately 100 acres of land suitable for timber production have been damaged from the thunderstorms and high winds. The project area is approximately five miles north of McKee, KY.

The area of damage is within Management Area 7, as defined by the Daniel Boone National Forest Land and Resource Management Plan. Management direction for Management Area 7 is to optimize growing potential by using high to medium intensity practices for yellow and white pine and medium to low intensity practices for upland and cove hardwoods. The damage is concentrated in three areas. One area of ten acres contains cove hardwoods, and the other two areas of 65 and 15 acres contain upland hardwoods including oak and poplar. Existing roads would be used to access the damaged forest areas and soils in this area are stable. The proposed salvage is consistent with Management Area 7's direction for protecting the forest from insect and disease outbreaks, and wildfires.

The damaged areas contain trees that are of high quality for timber products. The timber production potential of the dead and damaged trees will deteriorate due to insect attacks. Also, the area of damage is in the vicinity of the largest arson fire on the District this year. The fuels added by the dead and dying trees, and the potential hindrance to fire control operations of the large woody debris scattered on the forest floor present a significant risk of additional wildfire occurrences as the fall fire season approaches.

An environmental analysis is currently underway to study ways to salvage the dead and heavily damaged trees to minimize impacts to the areas, forest resources and restore a healthy forest. The environmental analysis document and biological evaluation being prepared will disclose the effects of the proposed action on the environment, document public involvement, and address any issues raised by the public. Given the present condition of the damaged timber the need for action is critical. Any delay will result in a loss of merchantable timber and present an increased opportunity for a wildfire situation.

Dated: September 10, 1993.

Janice H. McDougle,

Acting Deputy Regional Forester.

[FR Doc. 93–22736 Filed 9–16–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AB43

Subsistence Management for Federal Public Lands in Alaska; Game Management Unit 23

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Pursuant to regulatory authority found at 50 CFR 100.19 and 36 CFR 242.19, the Federal Subsistence Board (Board) has closed subsistence Dall sheep (sheep) hunting for a portion of Unit 23 for the remainder of the 1993–1994 regulatory year, and, has closed sheep harvest on all public lands in the remainder of Unit 23 for the period of August 10–31, 1993. Recent aerial surveys of Unit 23 indicated that adult sheep numbers have continued to decline over the past three year period and lamb recruitment remains below levels needed to stabilize a downward population trend. The Board has implemented temporary closure actions in Unit 23 to assure the continued viability of sheep populations.

EFFECTIVE DATE: August 10, 1993.

FOR FURTHER INFORMATION CONTACT: Interim Chair, Federal Subsistence Board, c/o Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503; telephone (907) 271–2306. National Park Service, P.O. Box 1029, Kotzebue, Alaska, 99752; telephone (907) 442–3890.

SUPPLEMENTARY INFORMATION: As empowered by regulatory authority at 50 CFR 100.10(a) and 100.19(b), and 36 CFR 242.10(a) and 242.19(b), the Board has closed public lands in Unit 23 south and east of the Noatak River and west of the Cutler and Redstone Rivers (excluding the upper Noatak River Canyon) and including the Igichuk Hills (that area west of the Noatak River and south of Noatak Village) to all sheep hunting for the 1993–1994 regulatory year. In addition, the Board has closed public lands in the remainder of Unit 23 to all sheep hunting from August 10–31, 1993.

Prior to this closure, the National Park Service staff in Kotzebue worked closely with the State of Alaska to monitor Unit 23 sheep numbers, collect pertinent age/sex population data, and assess biological and environmental factors which would indicate whether closure of the sheep season for any or all of Unit 23 was warranted. The State of Alaska has already undertaken similar action to close the State hunting seasons in corresponding portions of Unit 23 for the 1993–1994 regulatory year.

The Board received public comments from a hearing in Kotzebue, Alaska, held on July 26, 1993 to discuss sheep survey results and the current status and trends of the Unit 23 sheep population. Public participants supported proposed measures to close and restrict sheep hunting in Unit 23 in the manner in which the Board has acted. Consequently, in consideration of information before it, the Board has directed closures of sheep hunting in Unit 23, as specified above, in order to assure the continued viability of area sheep populations.

Ronald B. McCoy,

Interim Chair, Federal Subsistence Board.

Robert W. Williams,

Deputy Regional Forester, USDA-Forest Service.

[FR Doc. 93–22605 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AB43

Subsistence Management for Federal Public Lands in Alaska; Game Management Units 9 (D) and 23

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Pursuant to regulatory authority found at 50 CFR 100.19 and 36 CFR 242.19, the Federal Subsistence Board (Board) has closed subsistence hunting for caribou on all public lands in Unit 9(D) and Unit 10 for the remainder of the 1993–1994 regulatory year. The Southern Alaska Peninsula caribou herd endemic to these Units has suffered a decline from more than 10,000 animals in 1983 to a present estimate of less than 2000 animals. Calf recruitment since the 1980's has not exceeded adult mortality, and continued hunting pressure would threaten the continued viability of the herd.

EFFECTIVE DATE: August 10, 1993.

FOR FURTHER INFORMATION CONTACT: Interim Chair, Federal Subsistence Board, c/o Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503; telephone (907) 271–2306. Izembek National Wildlife Refuge, P.O. Box 127, Cold Bay, Alaska, 99571; telephone (907) 532–2445.

SUPPLEMENTARY INFORMATION: As empowered by regulatory authority at 50 CFR 100.10(a) and 100.19(b), and 36 CFR 242.10(a) and 242.19(b), the Board has enacted a temporary closure of the season for subsistence taking of caribou on all public lands in Unit 9(D) and Unit 10. Prior to the Broad closure, the Fish and Wildlife Service worked with the State of Alaska to monitor population trends and develop management objectives for the Southern Alaska Peninsula caribou herd. Overgrazing and low calf recruitment have resulted in a continuing downward trend in the status of the herd. Consequently, the State of Alaska closed State controlled caribou hunting seasons in Unit 9(D) and Unit 10 in an Emergency Order issued July 14, 1993.

A public hearing was held in Cold Bay, Alaska on August 3, 1993 to obtain comments on a proposed caribou hunting closure. In addition, Fish and Wildlife Service staff visited other affected communities to obtain further public comment. Public support of the closure was mixed but most individuals were either neutral or supported the proposed Board action. In consideration of information at hand, and to assure the continued viability of the Southern Alaska Peninsula caribou herd, the Board has closed caribou hunting on public lands in all of Unit 9(D) and Unit 10.

Ronald B. McCoy,

Interim Chair, Federal Subsistence Board.

Robert W. Williams,

Deputy Regional Forester, USDA-Forest Service.

[FR Doc. 93–22606 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–55–P–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List a portable tool box to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 18, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 16, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice (58 FR 38364) of the proposed addition of this tool box to the Procurement List. Comments were received from the current contractor for this tool box. The contractor indicated that it is a small business that has been producing the tool box for the Government for the past four years. The contractor stated that the tool box is a complicated one that is not easily produced. In claiming that addition of the tool box would have an adverse impact on it, the contractor indicated that it subcontracts some assembly operations to two organizations which employ people with disabilities.

The contract for this tool box represents a very small percentage of the contractor's annual sales. The Committee does not consider a sales loss at this level to constitute severe adverse impact, even when the fact that the contractor has been a continuing supplier of the tool box is taken into consideration. The nonprofit agency proposed to produce this tool box is already producing other tool boxes for the Government under the Committee's program. The central nonprofit agency involved in this action has inspected the nonprofit agency and certified that it is capable of producing this tool box. The Government activity which buys the tool box declined an opportunity to inspect the nonprofit agency based on its familiarity with the nonprofit agency's performance in producing the other tool boxes. Consequently, the Committee considers the nonprofit agency capable of producing the tool box.

The contractor did not provide information which would indicate whether the Committee's action would cause any loss of employment for people with disabilities employed by its subcontractors. The addition of the tool box to the Procurement List will create jobs for people with severe disabilities. In these circumstances, the Committee feels that this definite creation of jobs outweighs any possible loss of employment by people employed by subcontractors which would not be guaranteed of retaining their subcontracts even if the contractor continued to produce the tool box.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to produce the commodity, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Tool Box, Portable
5140–00–651–7676

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–22802 Filed 9–16–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities, military resale commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 18, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On April 9, June 25, July 9, 16 and 30, 1993, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (58 FR 18378, 34425, 36944, 38364, 39527 and 40800) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, military resale commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities, military resale commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities, military resale commodities and services.

3. The action will result in authorizing small entities to furnish the commodities, military resale commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities, military resale commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities, military resale commodities and services are hereby added to the Procurement List:

Commodities

Refill, Ballpoint Pen, Stick, Rubberized
7510–01–357–6831
7510–01–357–6832
7510–01–357–6833
7510–01–357–6834
7510–01–357–6835
7510–01–357–6836

Ballpoint Pen, Stick, Rubberized Barrel
7520–01–357–6839
7520–01–357–6840
7520–01–357–6841
7520–01–357–6842
7520–01–357–6843
7520–01–357–6844

Military Resale Commodities

Sweatshirt, Recruit, USMC
M.R. 640
M.R. 641
M.R. 642
M.R. 643
M.R. 644
Sweatpants, Recruit, USMC
M.R. 645
M.R. 646
M.R. 647
M.R. 648
M.R. 649

Services

Grounds Maintenance, Bristol Veterans USARC, 2501 Ford Road, Bristol, Pennsylvania
Grounds Maintenance, Philadelphia Memorial USARC, 2838–98 Woodhaven Road, Philadelphia, Pennsylvania
Janitorial/Custodial, U.S. Army Reserve Center and AMSA #32, Van Nuys, California
Janitorial/Custodial, Federal Building, 123 Fourth Street, SW., Albuquerque, New Mexico
Janitorial/Custodial, Defense National Stockpile Depot, Hoyt Avenue, Binghamton, New York
Janitorial/Custodial for the following Fargo, North Dakota locations: Federal Building and U.S. Courthouse, 655 First Avenue North, Federal Building and U.S. Post Office, 657 Second Avenue North
Mailroom Operation, U.S. Army Research Laboratory, 405 Arsenal Street, Watertown, Massachusetts
Operation of Postal Service Center, Building C, room 206, Offutt Air Force Base, Nebraska

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–22803 Filed 9–16–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 18, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe adverse impact on the current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to the Procurement List for production by the nonprofit agency listed:

Commodities

Pad, Writing Paper
7530–01–273–3755
7530–01–207–4353
7530–01–207–4354
7530–01–207–4355
7530–01–207–4356

Nonprofit Agency: The Association for the Blind and Visually Impaired of Greater Rochester, Inc., Rochester, New York

Services

Grounds Maintenance, Naval Weapons Station, Japanese Gardens, Wright Circle Picnic Area and Building 2006, Yorktown, Virginia, Nonprofit Agency: Lewis B. Puller Center, Inc. Gloucester, Virginia
Janitorial/Custodial, U.S. Courthouse, Constitution Ave. & 3rd Street, NW., Washington, DC, Nonprofit Agency: The Chimes, Inc. Baltimore, Maryland

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–22804 Filed 9–16–93; 8:45 am]

BILLING CODE 6820–33–P

COMMODITY FUTURES TRADING COMMISSION

Minneapolis Grain Exchange: Proposed Amendments to Frozen Shrimp Futures Contract Regarding Deliverable Species, Species-Related Price Differentials Applicable to Deliveries, and Location Price Differential Applicable to Futures Contract Deliveries in New York

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule amendments.

SUMMARY: The Minneapolis Grain Exchange ("MGE") has submitted proposed amendments to its frozen shrimp futures contract. The primary proposed amendments would change the schedule of price differentials applicable to deliverable shrimp species and size-count ranges; add four species of white shrimp to the list of deliverable species; eliminate delivery of shrimp falling within the size-count range of 61–70 per pound; and make shrimp located within the New York City delivery area deliverable at par rather than at the existing seven-cent-per-pound premium.

In accordance with section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before October 18, 1993.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the proposed amendments to the MGE frozen shrimp futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The existing terms of the futures contract provide for the delivery of four species of white shrimp: Penaeus (P.) vannamei, P. occidentalis and P. setiferus originating in Western Hemisphere countries; and P. chinensis (also known as P. orientalis) originating in the Peoples Republic of China. Currently the futures contract designates the par delivery unit as 5,000 pounds of shrimp of the above-noted Western Hemisphere species that fall within the size-count range of 41–50 per pound, with the P. chinensis species of the same size-count range being deliverable at a discount of 20 cents per pound.

The contract's terms also provide for delivery of the shrimp of the above-noted four species in size-count ranges other than 41–50 per pound at specified fixed price differentials.

The futures contract also currently provides for the delivery of shrimp at par in MGE-approved warehouses located within 50 miles of the city limits of Miami or Tampa, Florida or Brownsville, Texas. In addition, delivery may be made in MGE-approved warehouses within 50 miles of the city limits of New York City at a premium of seven cents per pound and within 50 miles of the city limits of Los Angeles, California at a discount of seven cents per pound.

The proposed amendment would reduce the existing premiums and increase the existing discounts applicable to the delivery of shrimp falling within the specified non-par size-count ranges for the designated par delivery species and to the delivery of the specified non-par species in all deliverable size-count ranges. The proposed amendments would delete P. setiferus as a designated par delivery shrimp species by establishing a discount of 20 cents per pound for the delivery of this species in the size-count range of 41–50 per pound. The proposed amendments would also eliminate delivery of shrimp in the size-count range of 61–70 per pound for all deliveries species.

The existing par delivery specifications and premiums and discounts for delivery of the various size-count ranges between size-count 31 and size-count 60 shrimp per pound for each of the currently deliverable species, and the proposed amended differentials for these size-counts, are summarized in the following table.

Species and size-count range	Dollars per pound	
	Current	Proposed
P. vannamei and P. occidentalis:		
31–35	+1.05	+.40
36–40	+.45	+.15
41–50	par	par
51–60	−.50	−.65
P. setiferus:		
31–35	+1.05	+.40
36–40	+.45	par
41–50	par	−.20
51–60	−.50	−.90
P. chinensis:		
31–40	+.35	par
41–50	−.20	−.35
51–60	−.75	−1.00

In addition, the proposed amendments would add the following four species of white shrimp to the list of deliverable species at the indicated price differentials: P. stylirostris (West Coast white shrimp), a Western hemisphere species, which would be designated as a par delivery species and be deliverable at the same proposed price differentials for the size-count ranges noted above for P. vannamei and P. occidentalis; P. schmitti (Southern white shrimp), a Western Hemisphere species, which would be deliverable at the same proposed size-count differentials noted above for P. setiferus; and P. penicillatus (redtail prawn) and P. merguiensis, two species of Eastern Hemisphere white shrimp, which would be deliverable at the same proposed price differentials for the size-count ranges noted above for P. chinensis.

The proposed amendments would permit delivery of shrimp within 50 miles of the city limits of New York City at par, rather than the existing premium of seven cents per pound. The other existing delivery points and locational price differentials would not be affected by the proposals.

The MGE intends to make the proposed amendments effective for the March 1994 contract month and all subsequently listed contract months.

The MGE indicates that the proposed amendments will enhance the extent to which the futures contract's terms reflect cash market conditions. The MGE indicates that the proposed amendments will improve the contract's correspondence with the cash market by incorporating differences observed in cash market value between deliverable shrimp species and size-counts, making certain commercially important species of shrimp deliverable, and refining the existing price differentials for non-par deliveries. The MGE also believes that the proposed amendments will improve the hedging and pricing utility of the contract.

The Commission is requesting comments specifically with respect to (1) the extent to which the proposed price differentials for deliverable species and size-count ranges, and the proposal to permit delivery within 50 miles of the city limits of New York City at par, reflect commonly observed commercial price differences; and (2) the impact of the proposed amendments on the level of economically deliverable supplies at the contract's delivery points during the delivery months traded under the futures contract (March, June, September and December).

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the amendments can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

Materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on September 13, 1993.

Gerald Gay,

Director.

[FR Doc. 93–22800 Filed 9–16–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Littoral Warfare/ Amphibious Warfare will meet on October 4 and 5, 1993. The meeting will be held at the Marine Corps Base, Camp Pendleton, California. The meeting will commence at 7 a.m. and terminate at 4 p.m. on October 4; and commence at 8 a.m. and terminate at 4 p.m. on October 5, 1993. All sessions of the meeting will be closed to the public.

The purpose of the meeting is provide the Department of the Navy with (1) an assessment of the capabilities and readiness of the U.S. Navy and Marine Corps to effectively conduct littoral and amphibious warfare operations, and (2) recommendations for technological investments that can improve performance while reducing risk to Marine and Naval forces. The agenda will include briefings and discussions related to the projected operating environment for the year 2000; operational concepts; assessments of C^4I; shallow water mine countermeasures; ship-to-shore movement (surface and air); fire support, including close air support; battle space dominance; and logistics.

These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander R. C. Lewis, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (703) 696–4870.

Dated: September 14, 1993.

Patrick W. Kelley,

Capt, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 93–22853 Filed 9–16–93; 8:45 am]

BILLING CODE 3810–AE–P

DEPARTMENT OF ENERGY

Continuation of a Public Scoping Meeting for the Proposed York County, Pennsylvania, Cogeneration Facility

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: Notice is hereby given that DOE will convene a public scoping meeting as a continuation of the meeting held on August 19, 1993, with regard to the preparation of an Environmental Impact Statement (EIS) to assess the environmental effects of the construction and operation of a proposed coal-fired cogeneration facility in North Codorus Township, York County, Pennsylvania. **Federal Register** notification of the Department of Energy's intent to prepare an EIS in compliance with the National Environmental Policy Act (NEPA) and conduct the initial public scoping meeting for the proposed cogeneration facility was published on July 29, 1993 (58 FR 40631). In response to the degree of public interest in this proposed Federal action, and to ensure that all individuals who wish to speak are accommodated, the public scoping meeting will be continued at the location, date, and time provided in the section of this Notice entitled SCOPING MEETING. The period for receipt of written comments is also extended.

The purpose of this Notice is to invite continued public participation and to solicit public comments on the proposed scope and content of the EIS in order to ensure that the full range of issues related to this proposal is addressed. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS will also be considered in preparing the draft EIS and should be postmarked by November 5, 1993. Written comments postmarked after that date will be considered to the degree practicable.

ADDRESSES: Written comments or suggestions on the scope of the EIS or questions concerning the project, should be directed to: Dr. Suellen A. Van Ooteghem, Environmental Project Manager, U.S. Department of Energy, Morgantown Energy Technology Center (METC), P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 284–5443.

Envelopes should be labeled "Scoping for the York EIS."

FOR FURTHER INFORMATION CONTACT: For general information on the EIS process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, Tel. (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The proposed Federal action is for DOE to provide cost-shared financial assistance to York County Energy Partners, L.P. (YCEP) for the design, construction, and operation of a 250 Megawatt-electric circulating fluidized boiler facility, known as the York County Energy Partners cogeneration facility, to be located adjacent to the P.H. Glatfelter Company paper mill in York County, Pennsylvania. Additional information, including background and need for the proposed action, description of the proposed facility, alternatives, identification of environmental issues, and the NEPA scoping process, was provided in the **Federal Register** notice of July 29, 1993 (58 FR 40631).

Scoping Meeting

A public scoping meeting will be held at the location, on the date, and at the time indicated below. This scoping meeting will be informal, with a presiding officer designated by DOE who will establish procedures governing the conduct of the meeting. Information regarding the proposed project and the EIS preparation process was presented at the scoping meeting of August 19, 1993, and will not be repeated at this scoping meeting. However, printed copies of materials distributed at the previous meeting will be available to attendees.

The purpose of this scoping meeting is for agencies, organizations, and the general public to have the opportunity to present oral comments or suggestions with regard to the range of actions, alternatives, and impacts to be considered in the EIS. The meeting will not be conducted as an evidentiary hearing, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Requests to speak in advance of the scoping meeting will not be honored. Individuals will be invited to speak in the following order:

1. The first speakers to be called will be those individuals who had registered to speak on August 19, 1993, but who

were not present when their names were called. These individuals will be invited to speak in the same order that their names appeared on the registration list on August 19, 1993.

2. The second group of speakers will be those individuals who did not speak or yield their time on August 19, 1993, and who request to speak at the meeting by registering in person on the evening of October 5, 1993. Registration will commence at 6 p.m. These speakers will be called on the basis of "first come, first served." If the meeting is continued to the evening of October 6, 1993, no additional registration to speak will be accepted on that date. When the registration list has been exhausted, the presiding officer may, as time permits, call upon the audience for any other persons who desire to speak and who have not already done so.

3. A third group of speakers will be called if, and to the extent that, time permits. This last group will include individuals who have already spoken or yielded their time on August 19, but who believe they have additional information that is relevant to the range of issues to be considered in the EIS, and who register in person on the evening of October 5, 1993.

Oral and written comments will be given equal weight by DOE, including all of the comments received on or after August 19, 1993. Written comments may be submitted after the scoping meeting, but should be postmarked by November 5, 1993, and forwarded to Dr. Suellen A. Van Ooteghem, Environmental Project Manager, Morgantown Energy Technology Center, as provided in the **ADDRESSES** section of this Notice. Written comments postmarked after that date will be considered to the degree practicable.

The meeting is scheduled as follows:

DATES: Tuesday, October 5, 1993.

TIME: 7 p.m. (Registration will commence at 6 p.m.)

PLACE: Old Main Building, York Fairgrounds, 334 Carlisle Avenue, York, PA 17404, (717) 848–2596.

IF NECESSARY, THE SCOPING MEETING MAY BE CONTINUED on Wednesday, October 6, 1993, at the same Time and Place as noted above.

Complete transcripts of the public scoping meeting will be available as described in the **Federal Register** notice of July 29, 1993 (58 FR 40631).

Those interested parties who do not wish to present or submit comments or suggestions during the scoping process, but who would like to receive a copy of the Draft EIS when it is prepared, should notify Dr. Suellen A. Van Ooteghem, Environmental Project Manager, Morgantown Energy Technology Center, at the address given in the ADDRESS section of this Notice.

Signed in Washington, DC, this 13th day of September 1993, for the United States Department of Energy.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 93–22770 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–P

Award Based on Acceptance of a Non-Competitive Application Alliance To Save Energy

AGENCY: U.S. Department of Energy (DOE).

SUMMARY: DOE, Office of Management and Resources, Energy Efficiency and Renewable Energy, through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(f), DOE intends to award a grant to the Alliance to Save Energy (ASE). The anticipated overall objective of this project entitled "Assessing the Role of Behavior as a Demand Side Management (DSM) Measure" is to conduct research to assist DSM planners in understanding the "human" barriers that prevent widespread DSM acceptance.

SUPPLEMENTARY INFORMATION: The grant of $75,000 will partially fund the ASE's study entitled "Assessing the Role of Behavior as a DSM Measure."

The project term of this grant shall be thirty-six (36) months from the effective date of award.

DOE support of that activity would enhance the public benefit to be derived and DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for non-competitive financial assistance and is not eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Anthony P. Pontello, Philadelphia Support Office, U.S. Department of Energy, Suite 501, 1880 J.F. Kennedy Boulevard, Philadelphia, PA 19103–7483, (215) 656–6951.

Issued in Chicago, Illinois, on September 8, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–22771 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance: Montana College of Mineral Science and Technology

AGENCY: Department of Energy, Idaho Operations Office.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.7(b)(2)(i) it plans to issue a non-competitive award of funding and support under Grant DE–FG07–93ID13271 to Montana College of Mineral Science and Technology to establish a multi-purpose science laboratory for use by rural junior and senior high school students, as well as teachers.

FOR FURTHER INFORMATION CONTACT: Carol L. Bruns, Contract Specialist, (208) 526–1534; U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, MS 1221, Idaho Falls, ID 83401–1562.

SUPPLEMENTARY INFORMATION: DOE and its predecessor agencies have each recognized the need to embrace science education as a vital component of their mission. EM–522's Environmental Literacy Program has two goals: (1) Promote EM-wide educational and career opportunities, and (2) increase the general public's knowledge of science and environmental issues involved in EM cleanups. The 1977 DOE Organization Act authorizes activities necessary to ensure that the Nation has an adequate scientific and technical workforce in energy related research and production fields. The grant award will be for one year with an estimated total cost of $60,000.00. No cost-sharing is included in this grant. Statutory authority for this award can be found in Public Law 95–224 the "Federal Grant and Cooperative Agreement Act of 1977".

Procurement request number: 07–93ID13271.000.

Dated: September 3, 1993.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 93–22777 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

Chicago Operations Office, New York Support Office; Noncompetitive Financial Assistance Award to the National Association of State Energy Officials

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Chicago Operations Office, through the New York Support Office, announces that, pursuant to the DOE Financial Assistance Rules 10 CFR 600.7 (b)(2), DOE intends to award a grant to the National Association of State Energy Officials (NASEO). The award is part of DOE efforts to support

deployment projects. The objective of this project is to update the Alternative Motor Fuels National Inventory.

SUPPLEMENTARY INFORMATION: The National Association of State Energy Officials is an umbrella organization which represents State and Territorial energy offices in the nation. In the normal course of its business, NASEO routinely polls and collects demographic data on a wide variety of energy topics from these sources. In particular, the NASEO Alternative Fuels Committee has collected and continues to collect relevant data on alternative fuels and alternative fuel vehicles in the nation. In addition, NASEO has formed a partnership with the Association of State Energy Research and Technology Transfer Institutions (ASERTTI) whose members include the New York State Energy Research and Development Authority, Iowa State University Engineering Center, and the like. The purpose of this partnership is to share information in a coordinated fashion among the members of ASERTTI and NASEO.

The grant application is being accepted by DOE because DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other organization that is conducting or planning to conduct this type of effort. The project period for the award is 12 months, expected to begin in September 1993. DOE plans to provide funding in the amount of $50,000.

FOR FURTHER INFORMATION CONTACT: Charles F. Baxter, U.S. Department of Energy, New York Support Office, 26 Federal Plaza, rm. 3437, New York, New York 10278–0068, (212) 264–1021.

Issued in Chicago, Illinois, on September 8, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–22772 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

National Alternative Fuel Vehicle Teleconference, Pennsylvania Energy Office; Award Based on Acceptance of an Unsolicited Application

AGENCY: U.S. Department of Energy (DOE).

SUMMARY: DOE, Office of Management and Resources, Energy Efficiency and Renewable Energy, through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(f), DOE intends to award a cooperative agreement to the Pennsylvania Energy Office to conduct a National Alternative Fuel Vehicle (AFV) Teleconference. The anticipated overall objective of this project is to develop and implement a National AFV Teleconference.

SUPPLEMENTARY INFORMATION: The agreement of $100,000 will fund the Pennsylvania Energy Office to conduct a National AFV Teleconference.

The term of this cooperative agreement shall be for a twelve (12) month project period.

DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for non-competitive financial assistance and is not eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Anthony P. Pontello, Philadelphia Support Office, U.S. Department of Energy, Suite 501, 1880 J.F. Kennedy Boulevard, Philadelphia, PA 19103–7483, (215) 656–6951.

Issued in Chicago, Illinois, on September 8, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–22774 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

City of Philadelphia—Clean Cities Award Based on Acceptance of a Non-Competitive Application;

AGENCY: U.S. Department of Energy.

SUMMARY: DOE, Office of Management and Resources, Energy Efficiency and Renewable Energy, through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(f), DOE intends to award a grant to the City of Philadelphia under DOE's Clean Cities Program. The anticipated overall objective of the project is to encourage the use of alternative fuel vehicles (AFVs) in urban regions and to increase awareness on the advantages and issues involved with using AFVs.

SUPPLEMENTARY INFORMATION: The grant of $50,000 will partially fund the Public Information Component of the City's Clean City Program.

The project term of this grant shall be twenty-four (24) months from the effective date of award.

DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for non-competitive financial assistance and is not eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Anthony P. Pontello, Philadelphia Support Office, U.S. Department of Energy, suite 501, 1880 J.F. Kennedy Boulevard, Philadelphia, PA 19103–7483, (215) 656–6951.

Issued in Chicago, Illinois, on September 8, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–22776 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

School District of Philadelphia; Award Based on Acceptance of a Non-Competitive Application

AGENCY: U.S. Department of Energy (DOE).

SUMMARY: DOE, Office of Management and Resources, Energy Efficiency and Renewable Energy, through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(f), DOE intends to award a grant to the School District of Philadelphia. The anticipated overall objective is to implement the Partnership in Energy/Environmental Technology (PEET) program to enhance energy technology dissemination in education.

SUPPLEMENTARY INFORMATION: The grant of $20,000 will partially fund three School District activities; a utility-sponsored training workshop on "Do-It-Yourself" energy projects, student research and on-site training activities related to four PSO-funded programs, and EPACT-related research.

The term of this grant shall be twenty-four (24) months from the effective date of award.

DOE support of the activity would enhance the public benefits to be derived and DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for non-competitive financial assistance and is not eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Anthony P. Pontello, Philadelphia Support Office, U.S. Department of Energy, suite 501, 1880 J.F. Kennedy Boulevard, Philadelphia, PA 19103–7483, (215) 656–6951.

Issued in Chicago, Illinois, on September 8, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–22775 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

Society of Automotive Engineers (SAE); Award Based on Acceptance of a Non-Competitive Application

AGENCY: U.S. Department of Energy (DOE).

SUMMARY: DOE Office of Management and Resources, Energy Efficiency and Renewable Energy, through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(f), DOE intends to award a grant to the Society of Automotive Engineers (SAE). The anticipated overall objective is to organize and conduct the 1993 Alternative Fuels TOPical TEChnical (TOPTEC) meeting series.

SUPPLEMENTARY INFORMATION: The grant of $85,000 will partially fund the 1993 Alternative Fuels TOPTEC meeting series to college and university faculty and students.

The term of this grant shall be twelve (12) months from the effective date of award.

DOE support of the activity would enhance the public benefits to be derived and DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for non-competitive financial assistance and is not eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Anthony P. Pontello, Philadelphia Support Office, U.S. Department of Energy, Suite 501, 1880 J.F. Kennedy Boulevard, Philadelphia, PA 19103–7483, (215) 656–6951.

Issued in Chicago, Illinois, on September 8, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–22773 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance; University of Idaho

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office (DOE–ID), announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.7(b)(2)(i), it intends to award a new start Grant Number DE–FG07–93ID13220 to the University of Idaho. This new grant is the result of an unsolicited proposal (Number U9300028). The objective of the project is to develop a process to magnetically control the deposition of metals utilizing gas plasma. The Federal Domestic Catalog Number is 81.087, Renewable Energy Research & Development.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer or Kathleen M. Stallman, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, MS 1221, Idaho Falls, Idaho 83401–1562, (208) 526–0014 or (208) 526–7038 respectively.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is Public Law 93–577, as amended, Federal Nonnuclear Energy Research and Development Act of 1974. The acceptance of this unsolicited proposal is justified under 10 CFR 600.7(b)(2)(i). In order for a "non-competitive" financial assistance award to be made, the project, as proposed, must meet one or more of the listed selection criteria. For this proposal, subparagraph (D) applies, "The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications." DOE has no recent, current, or planned solicitations under which this would be eligible. The proposed process would use commercially available plasma "guns" to generate a plasma/metal stream. The plasma stream is columnated and directed using magnetic forces to deposit metal without the generation of waste. The grant will be conducted in three phases: Phase I would be the development of an equation set describing the plasma stream from the exit of the "gun" to the point of impact and determining the mechanical and economic feasibility of the concept; Phase II would involve the generation of the design specification; and Phase III would be the construction and testing of a laboratory prototype. A milestone in Phase I would be a decision point as to the theoretical feasibility of the process. This award will be for five to six years at a total estimated value of $1.2M. No mandatory cost-sharing is included in this grant.

Dated: September 3, 1993.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 93–22778 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2519–003 Maine]

Central Maine Power Co.; Availability of Draft Environmental Assessment

September 13, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major new license for the North Gorham Project, located on the Presumpscot River, in Cumberland County, Maine and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the environmental impacts of the existing project and has concluded that approval of the project, with appropriate mitigation or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Please submit any comments within 30 days from the date of this notice. Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 2519 to all comments. For further information, please contact Kelly Schaeffer, Environmental Coordinator, at (202) 219–0231.

Lois D. Cashell

Secretary.

[FR Doc. 93–22722 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2482–018 New York]

Niagara Mohawk Power Corp.; Availability of Environmental Assessment

September 13, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for amendment of license to leave in place, as a permanent project feature, a substantial portion of a cofferdam. Niagara Mohawk Power Corporation

constructed the temporary cofferdam for the purpose of diverting water to facilitate significant rehabilitation of the existing Sherman Island Dam. The cofferdam is comprised of 13 cells, approximately 60 feet in diameter with arc cells between them. The arc cells are approximately 10 feet across. The Sherman Island Development of the Hudson River Project is located in the Hudson River in Warren and Saratoga Counties, New York. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. Alternatives were evaluated to determine the effects on the environment of removing the cofferdam or leaving portions of the structure in place. In the EA, the staff concludes that leaving portions of the cofferdam below the reservoir elevation would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22723 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER93–934–000, et al.]

Western Resources, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 10, 1993.

Take notice that the following filings have been made with the Commission:

1. Western Resources, Inc.

[Docket No. ER93–934–000]

Take notice that on September 7, 1993, Western Resources, Inc. (WRI) tendered for filling a proposed change to its Federal Energy Regulatory Commission Electric Service Tariff No. 234. WRI states the purpose of the change is to extend the term of the existing Electric Power Supply Contract between WRI and the City of Hillsboro, Kansas. The change is proposed to become effective November 10, 1993.

Copies of the filing were served upon the City of Hillsboro and the Kansas Corporation Commission.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Dutchess County Resource Recovery Agency

[Docket No. QF83–390–001]

On September 2, 1993, Dutchess County Resource Recovery Agency (Applicant), 41 Sand Dock Road, Poughkeepsie, New York 12601–5444 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the biomass-fueled small power production facility is located at Sand Dock Road, Poughkeepsie, New York. The Commission originally certified the facility as a qualifying cogeneration facility, 25 FERC ¶ 62,088 (1983). The instant certification is requested as a small power production facility with certain design modifications resulting in an increase in the maximum net electric power production capacity to 7.5 MW. The modified facility is expected to be operational by November 15, 1993.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Mississippi Power Company

[Docket No. ER93–921–000]

Take notice that on September 1, 1993, Mississippi Power Company tendered for filing a revision of the rates included in its FERC Electric Service Tariff, First Revised Volume No. 1. The revised rates would increase revenues from jurisdictional sales by $3,567,236 based on the 12-month period ending December 31, 1994. The charge per delivery point, the Kw charge, the Kwh charges, and the primary discount have been increased.

The Company estimates the rate of return on its properties devoted to serving its wholesale all requirements customers to be 6.9555% from revenues which it would receive under the existing rates during the 12-month period ending December 31, 1994. The Company states that such return would be increased to 9,0447% with the increased revenue under the tendered rates.

Posting of the filing has been accomplished with the public utility's jurisdictional customers and the Mississippi Public Service Commission.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Central Vermont Public Service Corporation

[Docket No. ER93–932–000]

Take notice that on September 7, 1993, Central Vermont Public Service Corporation (Central Vermont or the Company) tendered for filing an agreement with the Village of Hardwick Electric Department, Village of Morrisville Water and Light Department and Village of Stowe Water and Light Department (together the Villages) for the provision of Transmission and Interconnection Service (the Agreement).

This Agreement provides for the provision of transmission and interconnection service to the Villages across the Company's interconnection with the so-called "Morrisville-Johnson Intertie" at the Johnson Bus. The arrangement is for a term of ten (10) years from the date that service commences unless otherwise agreed to or as provided for in the Agreement. Service is not expected to commence until sometime in 1994.

This Agreement is part of a comprehensive settlement of issues surrounding the reliability of the provision of service to the Villages by Green Mountain Power Corporation and the Villages. That settlement, including this Agreement, is before the FERC in *Re: Green Mountain Power Corporation*, FERC Docket No. ER92–330–000 (Phase II). Central Vermont is not a party to that dispute and is not involved in that proceeding.

In order to provide service under this Agreement, both Central Vermont and the Villages will have to install facilities to allow for the provision of service. These facilities are also referenced in the filing in FERC Docket No. ER92–330–000 (Phase II). Due to the significant cost and lead times necessary to develop such facilities, Central Vermont hereby requests waiver of the Commission's one hundred and twenty (120) day notice requirement.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Central Maine Power Company

[Docket No. ER93–704–000]

Take notice that on September 7, 1993, Central Maine Power Company (CMP) tendered for filing proposed amendments to its power sales tariff filing currently pending approval before the Federal Energy Regulatory Commission.

The amendments provide additional support for certain aspects of the proposed tariff in accordance with requirements outlined by the

Commission in correspondence, dated August 6, 1993. Additional support is provided under the following categories of the proposed tariff:

(1) Derivation of the Demand Charge Ceiling;

(2) Clarification of Additional Charges; and

(3) Clarification of Termination Clause.

Copies of the amended filing were served upon all parties as shown on the official service list maintained by the Secretary in this proceeding.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Company

[Docket No. ER93–649–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on September 3, 1993, tendered for filing an amendment of its initial submittal in this docket. The amendment contains revised pages G–3 through G–7 relating to the Negotiated Capacity service schedule. Wisconsin Electric also responded to a request from Staff to explain the relative priorities among the various service schedules.

Wisconsin Electric renews its requested effective date of July 16, 1993, sixty days after its original tender date.

Copies of the filing have been served on Wisconsin Public Service Corporation, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER93–933–000]

Take notice that on September 7, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing a notice of termination of two parts of the Interconnection Agreement (IA) between PG&E and Sierra Pacific Power Company, PG&E Rate Schedule FERC No. 72.

Pursuant to Section 1 of Appendix B to the IA, capacity service terminated on December 31, 1989. As a result of this termination, both Section 1 of Appendix B and Service Schedule 1 of Appendix A to the IA are no longer operative. Consequently, in accordance with § 35.13 of the Commission's regulations, 18 CFR 35.15, this notice of termination of these two parts of the rate schedule is being submitted to the Commission.

Copies of this filing were served on SPP, the Northern California Power Agency and the California Public Utilities Commission.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Power, Inc.

[Docket No. ER93–930–000]

Take notice that on September 2, 1993, Entergy Power, Inc. (Entergy Power), tendered for filing an Amendment to a unit power sale agreement between Entergy Power and Northeast Texas Electric Cooperative, Inc. Entergy Power states that the purpose of the Amendment is to delete a confidential provision and also to provide that amendments are subject to the approval of the Rural Electrification Administration. Entergy Power requests waiver of the Commission's notice requirements in that the Amendment be made effective on August 16, 1993.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Minnesota Power & Light Company

[Docket No. ER93–929–000]

Take notice that on September 1, 1993, Minnesota Power & Light Company (Minnesota Power) tendered for filing an Amendment to its Negotiated Capacity Option Agreement with Wisconsin Power & Light Company (WP&L). Minnesota Power requests an effective date on November 1, 1993.

Copies of this filing have been served upon WP&L, the Minnesota Public Utilities Commission and the Public Service Commission of Wisconsin.

Comment date: September 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR. Doc. 93–22727 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–704–000, et al.]

National Pipeline Co., et al.; Natural Gas Certificate Filings

September 10, 1993.

Take notice that the following filings have been made with the Commission:

1. National Pipeline Company

[Docket No. CP93–704–000]

Take notice that on September 7, 1993, National Pipeline Company (National), 301 South Harwood Street, Dallas, Texas 75201, filed an application with the Commission in Docket No. CP93–704–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a transportation service for Natural Gas Pipeline Company of America (Natural) and the affiliated facilities which were authorized in Docket No. CP71–272[1], all as more fully set forth in the application which is open to public inspection.

National proposes to abandon a natural gas transportation service under its FERC Rate Schedule T–4 for Natural. National transports Natural's gas via National's Line OFF–1, which consists of approximately 35 miles of 18-inch pipe between the Fashing Treating Plant in Atascosa County, Texas, to an interconnection with Natural's 16-inch pipeline in Live Oak County, Oklahoma. National proposes to abandon interstate transportation service via Line OFF–1 and to operate Line OFF–1 as an intrastate pipeline or on an open-access section 311(a) basis. National states that Natural desires to terminate the transportation agreement upon the expiration of the primary term of the agreement on December 16, 1993.

Comment date: October 1, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. National Pipeline Company

[Docket No. CP93–705–000]

Take notice that on September 7, 1993, National Pipeline Company (National), 301 South Harwood Street, Dallas, Texas 75201, filed an application with the Commission in Docket No. CP93–705–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a

[1] See order at 49 FPC 371 (1973).

transportation service for Natural Gas Pipeline Company of America (Natural) and abandon the related pipeline facilities which were authorized in Docket No. CP71–274 [2], all as more fully set forth in the application which is open to public inspection.

National proposes to abandon two natural gas transportation services under its FERC Rate Schedule T–1 and T–3 for Natural. National transports Natural's gas under Rate Schedule T–1 via National's Line 1A, which consists of approximately 0.85 miles of 6-inch pipe between the Warren Petroleum Corporation's Carter-Knox Gasoline Plant in Stephens County, Oklahoma, and an interconnection with Natural's 20-inch pipeline in Grady County, Oklahoma. National transport Natural's gas under Rate Schedule T–3 via National's Line 1B, which consists of approximately 3.7 miles of 6-inch between an interconnection of two gathering lines owned by Chevron U.S.A. Inc. in the Rush Spring Field and an interconnection with Natural's 20-inch pipeline in Grady County, Oklahoma.

National also proposes to abandon Lines 1A and 1B by sale to Associated Natural Gas, Inc., which intends to operate these facilities as intrastate pipelines.

Comment date: October 1, 1993, in accordance with Standard Paragraph F at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP93–709–000]

Take notice that on September 7, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–709–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Arkla Energy Resources Company (AER), which was authorized in Docket No. G–898, all as more fully set forth in the application on file with the Commission and open to public inspection.

WNG proposes to abandon the transportation service carried out under the terms of a transportation agreement dated September 6, 1949, as amended, on file with the Commission as WNG's Rate Schedule X–4 and AER's Rate Schedule XT–26. It is stated that WNG and AER have mutually agreed to the abandonment and that there would be no adverse impact on any customers resulting from the abandonment. It is further stated that WNT notified AER in a letter dated September 30, 1992, of WNG's intention to terminate the transportation service.

Comment date: October 1, 1993, in accordance with Standard Paragraph F at the end of this notice.

4. ANR Pipeline Company

[Docket No. CP89–2195–002]

Take notice that on August 31, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–2175–002 a petition to amend the exiting authorization issued in Docket No. CP89–2175–000, as amended on rehearing, to reflect revisions to an agreement in which ANR would acquire property interests in jurisdictional facilities currently owned by Arkla Energy Resources Company (AERCo) and Mississippi River Transmission Corporation (MRT), as provided by section 7(c) of the Natural Gas Act, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

ANR states that in earlier orders in this proceeding, (61 FERC ¶ 61,004, issued on October 1, 1992); 63 FERC ¶ 61,215, issued on May 20, 1993), the Commission approved the acquisition by ANR from AERCo and MRT of an undivided property interest in certain jurisdictional facilities owned by AERCo and MRT, but conditioned the authorization to eliminate receipt and delivery point restrictions, rejected the parties' request for pregranted reacquisition and abandonment of the interests in the event of automatic reversion to AERCo and MRT of the conveyed interests under certain specified conditions and also placed ANR at-risk for the costs associated with the acquired facilities in the event that all of the capacity is not subscribed under firm 10-year contracts at the time it files to include the cost of these facilities in its rates.

ANR indicates that, consistent with the Commission orders, the parties have agreed to revise the proposed transaction. It is indicated that the purchase price would be reduced from $125,000,000 to $91,100,000 as of December 31, 1992, to be adjusted to reflect any additions, depreciation, sales, leases and retirements prior to closing. ANR also indicates that ANR would not acquire an undivided interest in AERCo's Arkoma Basin gathering facilities in a 12-county area of the Arkoma Basin, but would be provided access to these areas through additional transmission receipt point flexibility and the use of pools.

ANR also states that to implement the Commission's directives as to receipt point access, the parties have agreed to permit ANR access to the following:

(1) All existing receipt points on the ANR facility interests which connect with the facilities of ANR or any third parties;

(2) All future receipt points on the ANR facility interests which connect with the facilities of any third parties;

(3) Pools which feed the ANR facility interests from interconnections with AERCo or MRT gathering facilities or third parties;

(4) The same rights as AERCo's and MRT's Rate Schedule FT customers to use interconnections between the ANR facility interests and AERCo's or MRT's gathering facilities;

(5) New taps to be constructed at ANR's request on any of the ANR facility interests located in the 12-county Arkoma Basin, on Line AC in Oklahoma or on the Transark Pipeline.

ANR also points out that, in a recent order issued August 2, 1993, 64 FERC ¶ 61,161, the Commission clarified that the at-risk conditions imposed in its earlier orders were not intended to impose a rigid formula which requires firm ten year contracts for all of the capacity constructed. ANR also notes that the Commission clarified that pipelines will be free to demonstrate in a section 4 proceeding that the costs of the facilities that it seeks to include in rates will produce just and reasonable rates to its customers. ANR requests that the imposition of an at-risk condition in the October 1, 1992, order be clarified in accordance with the Commission's recent pronouncement in the August 2, 1993, order and that ANR is free to satisfy the at-risk condition in its upcoming rate case consistent with such clarification.

Comment date: October 1, 1993, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Arkla Energy Resources Company and Mississippi River Transmission Corporation

[Docket No. CP89–2173–002]

Take notice that on August 31, 1993, Arkla Energy Resources Company (AERCo), P.O. Box 21734, Shreveport, Louisiana 71151, and Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, together referred to Applicants, jointly filed in Docket No. CP89–2173–002 a petition to amend the existing authorization issued in Docket No. CP89–2173–000, as amended on rehearing, to reflect a reduced purchase price by ANR Pipeline Company (ANR) and a revision of the assets in which interests are to be acquired by ANR, as

[2] See order at 49 FPC 371 (1973).

provided by section 7(b) of the Natural Gas Act, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicants state that in earlier orders in this proceeding, (61 FERC ¶ 61,004 (1992); 63 FERC ¶ 61,215 (1993), the Commission approved that abandonment by sale to ANR of an undivided property interest in certain jurisdiction facilities owned by AERCo and MRT, but conditioned the authorization to eliminate receipt and delivery point restrictions and rejected the parties' request for pregranted reacquisition and abandonment of the interests in the event of automatic reversion to AERCo and MRT of the conveyed interests under certain specified conditions.

It is stated that in its orders, the Commission recognized that, by imposing these conditions on the transactions, the Commission had altered the bargain struck by the parties and the parties might have to renegotiate certain aspects of the agreement, such as the purchase price. Applicants indicate that consistent with the Commission orders, the parties have agreed to revise the proposed transaction. It is indicated that the purchase price would be reduced from $125,000,000 to $91,100,000 as of December 31, 1992, to be adjusted to reflect any additions, depreciation, sales, leases and retirements prior to closing. Applicants also indicate that ANR would not require an undivided interest in AERCo's gathering facilities in a 12-county area of the Arkoma Basin, but would be provided access to these areas through additional transmission receipt point flexibility and the use of pools.

Applicants also state that to implement the Commission's directives as to receipt point access, Applicants propose to permit ANR access to the following:

(1) All existing receipt points on the ANR facility interests which connect with the facilities of ANR or any third parties;

(2) All future receipt points on the ANR facility interests which connect with the facilities of any third parties;

(3) Pools which feed the ANR facility interests from interconnections with AERCo or MRT gathering facilities or third parties;

(4) The same rights as AERCo's and MRT's Rate Schedule FT customers to use interconnections between the ANR facility interests and AERCo's or MRT's gathering facilities;

(5) New taps to be constructed at ANR's request on any of the ANR facility interests located in the 12-county Arkoma Basin, on Line AC in Oklahoma or on the Transark Pipeline.

Comment date: October 1, 1993, in accordance with the first subparagraph of Standard Paragraph F 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, N.E., 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 protests 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. 93–22716 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–631–000]

Colockum Transmission Company, Inc.; Notice of Filing

September 13, 1993.

Take notice that Colockum Transmission Company, Inc. (Colockum), on September 7, 1993, tendered for filing on behalf of itself and PacifiCorp additional information relating to an Agreement dated December 21, 1992 between Colockum and PacifiCorp that was tendered for filing with the Commission on May 4, 1993.

This Agreement contemplates the exchange of capacity for energy, and involves no form of income for either party. Pursuant to the Agreement, PacifiCorp agrees to deliver firm energy to Colockum at a rate of exchange of 1947 kilowatt-hours of energy per kilowatt of capacity.

Copies of the amended filing were served upon Public Utility No. 1 of Chelan County, the Washington Utilities and Transportation Commission and the Oregon Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22719 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER93–397–002 and ER93–398–002]

Ocean State Power and Ocean State Power II; Notice of Filing

September 13, 1993.

Take notice that on September 2, 1993 Ocean State Power and Ocean State Power II tendered for filing its compliance filing pursuant to the Commission's letter order dated August 4, 1993, in the above-referenced dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22725 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–712–000]

PSI Energy, Inc.; Notice of Filing

September 13, 1993.

Take notice that PSI Energy, Inc. (PSI) and the City of Logansport, Indiana on September 8, 1993, tendered for filing amended Service Schedules and additional supporting information to the FERC Filing in Docket No. ER93–712–000 to comply with a FERC staff request.

Copies of the filing were served on the City of Logansport, Indiana and the Indiana Utility Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22720 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–938–000]

Southwestern Electric Power Co., Public Service Company of Oklahoma; Filing

September 13, 1993.

Take notice that on September 9, 1993, Southwestern Electric Power Company and Public Service Company of Oklahoma (Companies) submitted for filing a Firm Transmission Tariff and a Coordination Transmission Service Tariff.

The proposed Tariffs set forth the rates, terms and conditions at which the Companies will provide certain transmission services for Electric Utilities (as that term is defined in the Tariff).

Copies of the filing have been served upon the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas. The Companies request an effective date for the Tariffs of November 8, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22726 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–616–000]

Tennessee Gas Pipeline Co.; Notice Of Site Visit

September 13, 1993.

The staff of the Federal Energy Regulatory Commission will conduct a site visit of the facilities proposed in the Conesville Lateral Project on September 28 and 29, 1993. The facilities are in Guernsey, Muskingum, and Coshocton Counties, Ohio. Anyone planning to attend must provide their own transportation. For further information, contact Ms. Laura Turner at (202) 208–0916.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22724 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–683–000]

Western Resources, Inc., Notice of Filing

September 13, 1993.

Take notice that on September 9, 1993, Western Resources, Inc. (WRI) tendered for filing an amendment to its May 28, 1993 filing in this docket. The filing provides explanation and information in response to the Commission's August 10, 1993 Letter Order issued by the Director, Division of Applications. The filing also requests final Commission approval of new service Agreements which were negotiated between the Kansas Electric Power Cooperative, Inc. (KEPCo) and WRI and between KEPCo and WRI's wholly-owned subsidiary Kansas Gas and Electric Company, all which became effective June 1, 1993.

Copies of the filing were served on KEPCo and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such notions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22718 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–849–000]

Western Resources, Inc.; Notice of Filing

September 13, 1993.

Take notice that on September 8, 1993, Western Resources, Inc. (WRI) tendered for filing an amendment to its August 10 1993 filing in this docket. The filing provides new supporting workpapers for the Participation Power Agreement between WRI's wholly-owned subsidiary Kansas Gas and Electric Company and Midwest Energy, Inc. (MWE) and a new calculation of the annual effect of the associated transmission charge from WRI to MWE.

Copies of the filing were served on MWE and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22721 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–523–000]

Western Resources, Inc.; Filing

September 13, 1993.

Take notice that on August 26, 1993, Western Resources, Inc. tendered for filing an amendment to its original filing filed in this docket on March 31, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22717 Filed 9–16–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket PP–96]

Application for a Presidential Permit by Boise Cascade Corporation

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Application for presidential permit.

SUMMARY: The Boise Cascade Corporation (Boise), a Delaware corporation, has applied to the Department of Energy (DOE) for a Presidential permit to construct, connect, operate, and maintain electric transmission facilities across the international border between the United States and Canada pursuant to Executive Order No. 10485, as amended.

DATES: Comments, protests or requests to intervene must be submitted on or before October 18, 1993.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FE Docket Number PP–96, should appear clearly on the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Officer) 202–586–4708 or Lise Howe (Program Attorney) 202–586–2906.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electrical energy is prohibited in the absence of a Presidential permit pursuant to Executive Order No. 10485, as amended by Executive Order No. 12038.

On July 12, 1993, Boise applied to the DOE for a Presidential permit to construct, connect, operate, and maintain a 115-kilovolt (kV) transmission line crossing the U.S. international border. Boise has indicated in its application that it does not plan to connect this line to corresponding electrical facilities in Canada at this time.

Boise, in cooperation with Minnesota Power & Light Company (MP&L), proposes to dismantle 0.1 miles of an existing single-circuit 115-kV international transmission line which crosses the Rainy River between International Falls, Minnesota, and Fort Francis, Ontario, Canada. This line will be replaced, on the same center line and over the same distance, by two, 115-kV circuits which will occupy the same support structures, with one exception, that one existing support structure on the Minnesota side of the river will be replaced. One of the two 115-kV circuits crossing the Rainy River will be owned and operated by Boise. The second circuit will be owned and operated by MP&L and is the subject of a separate Presidential permit application. That application by MP&L was noticed in the **Federal Register** on August 23, 1993, (58 FR 44508).

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with Section 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests should be filed directly with David G. Gadda, Associate General Counsel, Legal Department, Boise Cascade Corporation, one Jefferson Square, P.O. Box 50, Boise, Idaho 83728–0001.

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; or that it has or represents an interest which may be directly

affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the issuance of the Presidential permit will not adversely impact the reliability of the U.S. electric power supply system.

NEPA Process

Before a Presidential permit may be issued or amended, the environmental impacts of the proposed DOE action must be evaluated pursuant to the National Environmental Policy Act of 1969 ("NEPA"). The NEPA compliance process is a cooperative, non-adversarial process including members of the public, state governments, and the federal government. The process affords all persons interested in or potentially affected by the environmental consequences of a proposed action an opportunity to present their views, which will be considered in the preparation of the environmental documentation for the proposed action. Intervening and becoming a party to this proceeding will not create any special status for the petitioner with regard to the NEPA process. Should a public proceeding be necessary in order to comply with NEPA, notice of such activities and information on how the public can participate in those activities will be published in the **Federal Register**, local newspapers, and public libraries and/or reading rooms in the vicinity of the electric transmission facilities.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on September 13, 1993.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs Fossil Energy.

[FR Doc. 93–12779 Filed 9–16–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

Acid Rain Permits

[FRL 4731–2]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final permits.

SUMMARY: The U.S. Environmental Protection Agency [EPA] is issuing five-year Acid Rain permits, according to the Acid Rain Program regulations (40 CFR part 72), to the following 6 utility plants: Cayuga, Gibson, R Gallagher, and Wabash River in Indiana; B L England in New Jersey; and Muskingum River in Ohio.

FOR FURTHER INFORMATION CONTACT: *For B L England:* Gerry DeGaetano at (212) 264–6685. Air and Waste Management Division, EPA Region 2, Jacob J. Javitz Federal Bldg., 26 Federal Plaza, room 500, New York, NY 10278.

For plants in Indiana: Patrick Gimino at (312) 353–8651. Air and Radiation Division, EPA Region 5, 77 West Jackson Blvd. (A–18J), Chicago, IL 60604.

For Muskingum River: Allan Batka at (312) 353–7316, at the EPA Region 5 address above.

Dated: September 13, 1993.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 93–22791 Filed 9–16–93; 8:45 am]

BILLING CODE 6560–50–P

[ER-FRL–4624–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 30, 1993 Through September 3, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D–BOP–D80022–PA, Rating EC2, Philadelphia, PA. Metropolitan Detention Center (MDC), Construction and Operation, City of Philadelphia, PA.

Summary: EPA expressed environmental concerns due to potential impacts from hazardous waste and noise, air quality, and public safety concerns. Additional Information on these issues is necessary to allow for a full assessment.

ERP No. D–BOP–K80031–HI, Rating EC2, Honolulu, HI Federal Detention Center (FDC), Construction and Operation, City of Honolulu, Island of Oahu, HI.

Summary: EPA expressed environmental concerns associated with potential hazardous substances contamination and encouraged Bureau of Prisons (BOP) to undertake a thorough hazardous substances site characterization prior to site selection. EPA also expressed concerns regarding water quality protection requirements under the Clean Water Act. BOP should coordinate its water quality protection measures with the Hawaii Department of Health.

ERP No. D–COE–G39027–LA, Rating EC2, Louisiana Coastal Wetlands Comprehensive Restoration Plan, Implementation and Funding, several Parishes, LA.

Summary: EPA expressed environmental concerns regarding this document's lack of a holistic Louisiana wetland plan which would include a sediment management strategy, demonstration projects, and possible wetlands creation with dredged material.

ERP No. D–FRC–G05047–AR, Rating LO, River Mountain Pumped Storage Hydroelectric Project, FERC No. 10455, Construction, Operation and Maintenance, License, Logan County, AR.

Summary: EPA had no objections to the licensing of the River Mountain pumped storage hydroelectric project provided the additional mitigation measures identified by the FERC staff are applied as license conditions.

ERP No. DS–AFS–L65099–ID, Rating EC2, Cuddy Mountain Roadless Area, Grade/Dukes Timber Sale and Road Construction, New Information concerning Additional Modifications to the Blend Alternative, Implementation, Payette National Forest, Washington and Adams Counties, ID.

Summary: EPA expressed environmental concerns regarding the sale's potential impact on water quality. Given the significant increase in timber harvest activity in the Cuddy Mountains area the final supplemental EIS should expand discussions on cumulative water quality impacts for Grade Creek, Dukes Creek, and Brownlee Creek.

Final EISs

ERP No. F–BLM–K03006–CA, Cajon Crude Oil Pipeline Project, Construction, Operation and Transportation, from the Santa Barbara Channel and the San Joaquin Valley to the Los Angeles Basin, Granting of Right-of-Way Permit, San Bernardino and Los Angeles Counties, CA.

Summary: EPA expressed environmental concerns about project adverse impacts to water resources and water supplies which could result from oil spills and pipeline construction and operation.

ERP No. F–COE–E30000–SC, Myrtle Beach (Known as the Grand Strand) Shoreline Protection Project, Beach Erosion Protection, Implementation, Horry and Georgetown Counties, SC.

Summary: EPA suggested that consideration of cumulative impacts associated with beach nourishment projects be factored into subsequent interagency planning.

ERP No. F–FHW–D40246–PA, PA–33 Extension, US 22 Interchange in Bethlehem Township to I–78 Interchange in Lower Saucon Township, Funding, and COE Section 404 Permit, Northampton County, PA.

Summary: EPA had no objections to the proposed project.

ERP No. F–FHW–F40310–MN, MN-Trunk Highway-212 Construction, Cologne to MN-Trunk Highway-5/I–494 in Eden Prairie, Funding and Section 404 Permit, Carver and Hennepin Counties, MN.

Summary: EPA continued to express environmental concerns for the proposed action, especially the wetland mitigation plan.

ERP No. F–USN–K11101–GU, US Navy Facilities Relocation and Development, from the Republic of the Philippines to the Territory of Guam, Implementation and COE Section 404 Permit, GU.

Summary: EPA requested that the Navy Record of Decision address hazardous waste minimization, toxic release inventory reporting, and future NEPA documentation required to accommodate Guam relocation activities.

Dated: September 14, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–22744 Filed 9–16–93; 8:45 am]

BILLING CODE: 6560–50–U

[ER-FRL–4624–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed September 06, 1993 Through September 10, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930313, FINAL EIS, COE, OH, Cleveland Harbor Navigation Channels Maintenance, Confined Disposal Facility (Site 10B 15 Year) Construction and Use, Lake Erie, Cuyahoga River, Cuyahoga County, OH, Due: October 18, 1993, Contact: Timothy Daly (716) 879–4171.

EIS No. 930314, DRAFT EIS, COE, OR, Barney Reservoir Expansion Project, Increasing Municipal Water Supply on the Middle Fork of the North Fork Trash River and Section 404 Permit Issuance, Washington County, OR, Due: November 01, 1993, Contact: David Kurkoski (503) 326–6094.

EIS No. 930315, DRAFT EIS, UAF, AZ, Williams Air Force Base (AFB) Disposal and Reuse, Implementation, Permit and Approval, City of Mesa, Maricopa County, AZ, Due: November 01, 1993, Contact: Ltc. Gary Baumgartel (210) 536–3869.

EIS No. 930316, DRAFT EIS, AFS, CA, NY, CA, NV, Interagency Motor Vehicle Use Plan (IMVUP) Revision, Implementation, Acquisition for Land within the Inyo National Forest and Bishop Resource Area, Inyo, Madera, Tulare and Mono Counties CA and Esmeralda and Mineral Counties, NV, Due: November 09, 1993, Contact: Ernie DeGraff (619) 873–2439.

Amended Notices

EIS No. 930204, DRAFT EIS, FHW, WI, Lake Arterial Extension, WI-TH–31 to Layton Avenue, Funding and Possible COE Section 404 Permit, Kenosha, Racine and Milwaukee Counties, WI, Due: October 05, 1993, Contact: Thomas J. Fudaly (608) 264–5940. Published FR 06–25–93—Review period extended.

EIS No. 930277, DRAFT EIS, AFS, ID, Fourmile Timber Sale, Timber Harvesting and Road Construction, Payette National Forest, New Meadow Ranger District, Adam County, ID, Due: October 15, 1993, Contact: Mike Balboni (208) 634–0629. Published FR 08–20–93—Review period extended.

EIS No. 930278, DRAFT EIS, AFS, ID, Freight Landing Timber Sale, Timber Harvesting and Road Construction/ Reconstruction, Payette National Forest, McCall Ranger District, Idaho County, ID, Due: October 15, 1993, Contact: Mike Balboni (208) 634–0629. Published FR 08–20–93—Review period extended.

EIS No. 930302, FINAL SUPPLEMENT, DOE, CA, Petroleum Production at Maximun Efficient Rate, Naval Petroleum Reserve No. 1 Continued Operation, Updated Information, Elk Hills, Kern County, CA, Due: October 04, 1993, Contact: James C. Killen (805) 763–6038. Published FR 09–03–93—Due Date Correction.

Dated: September 14, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–22745 Filed 9–16–93; 8:45 am]

BILLING CODE: 6560–50–U

[OPPTS–59970; FRL–4640–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 11 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–164, June 28, 1993.

Y 93–165, 93–166, 93–167, July 1, 1993.

Y 93–168, 93–169, 93–170, 93–171 July 12, 1993

Y 93–172, 93–173, 93–174, August 1, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center, (NCIC) ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93–164

Manufacturer. Eastman Kodak Company.

Chemical. (G) Condensation product of a urethane dimer and a substituted phenylacrylate ester.

Use/Production. (S) Water-thinned baking finishes for metals. Prod. range: Confidential.

Y 93–165

Manufacturer. Confidential.

Chemical. (G) Long oil alkyd.

Use/Production. (S) Interior architectural finishes. Prod. range: Confidential.

Y 93–166

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (S) Fiberglass reinforced plastics for boats, automative body parts, simulated marble. Prod. range: Confidential.

Y 93–167

Manufacturer. Confidential.

Chemical. (G) Short oil alkyd.

Use/Production. (S) Baked metal coatings. Prod. range: Confidential.

Y 93–168

Manufacturer. Confidential.

Chemical. (G) Polyester polyol

Use/Production. (S) Printing ink resin. Prod. range: 113,000–431,000 kg/yr.

Y 93–169

Manufacturer. Henkel Corporation.

Chemical. (G) Polyester.

Use/Production. (S) Printing ink resin. Prod. range: 1,500,000–1,700,000 kg/yr.

Y 93–170

Manufacturer. Lilly Industries, Inc.

Chemical. (G) Polymer of benzenedicarboxylic acid, alkanetriol, vegetable oil and fatty acids, and phenolic resin.

Use/Production. (S) Industrial liquid paints. Prod. range: 50,000–205,000 kg/yr.

Y 93–171

Manufacturer. Essex Specialty Products.

Chemical. (G) Silanated urethane polymer.

Use/Production. (S) Polymer used in sealant manufacture. Prod. range: Confidential.

Y 93–172

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry coatings for metal substrates. Prod. range: Confidential.

Y 93–173

Manufacturer. Confidential.

Chemical. (G) Polyol ester.

Use/Production. (G) Dehydration agent. Prod. range: Confidential.

Y 93–174

Importer. MTC America, Inc.

Chemical. (S) Poly (propylene glycol), 1,3 butanediol, 2-ethyl-2-(hydroxymethyl) 1,3-propanediol with tolylene 2,4-diisocyanate and *E*-caprolactam.

Use/Import. (S) Two component black urethane coating. Import range: Confidential.

Dated: August 30, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–22788 Filed 9–16–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59971; FRL–4647–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 14 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–175, August 4, 1993.

Y 93–176, 93–177, 93–178, 93–179, 93–180, 93–181, 93–182, 93–183, 93–184, 93–185, 93–186, 93–187, 93–188, August 7, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93–175

Manufacturer. Henkel Corporation.

Chemical. (G) Polyester.

Use/Production. (S) Plasticizer for polyvinyl chloride resin. Prod. range: 500,000–750,000 kg/yr.

Y 93–176

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl esters, 2-methyl-2-propenoic acid and polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–177

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl esters, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–178

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl esters, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–179

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl esters, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–180

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl esters, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–181

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–182

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–183

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–184

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–185

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–186

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–187

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Y 93–188

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkenoic alkyl ester, 2-methyl-2-propenoic acid polymer; salt.

Use/Production. (S) Thickener. Prod. range: Confidential.

Dated: September 7, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–22789 Filed 9–16–93; 8:45 am]

BILLING CODE 6560–50–F0

[OPPTS–59972; FRL–4647–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 11 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–189, 93–190, 93–191, August 9, 1993.

Y 93–192, August 10, 1993.

Y 93–193, August 17, 1993.

Y 93–194, August 19, 1993.

Y 93–195, August 23, 1993.

Y 93–196, 93–197, 93–198, August 31, 1993.

Y 93–199, September 6, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93–189

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Mineral dispersant. Prod. range: 35,000–350,000 kg/yr.

Y 93–190

Manufacturer. The Chromoline Corporation.

Chemical. (S) Polyvinyl alcohol acetalized with *N*-(2-C_1,3-dioxane-2yl)-ethyl)-4-styrylpyridinium bromide.

Use/Production. (S) Photocross linkable polymer for photostencil or photo-imaging systems. Prod. range: 580–1,160 kg/yr.

Y 93–191

Importer. Weatherly Incatlanata.

Chemical. (G) Polymer of divinylbenzene and ethylvinylbenzene.

Use/Import. (G) Polymeric resins for compound use as an adsorbant fofor VOC control, resinis continuously recycle VOC's. Import range: Confidential.

Y 93–192

Importer. Confidential.

Chemical. (G) Styrene copolymer.

Use/Import. (G) Plastic modifier and compatibilizer. Import range: Confidential.

Y 93–193

Manufacturer. Confidential.

Chemical. (G) Segment polyurethane-urea.

Use/Production. (S) Polymer for fiber production. Prod. range: Confidential.

Y 93–194

Manufacturer. Confidential.

Chemical. (G) Blocked polyester polyurethane.

Use/Production. (G) Component of coating with open use. Prod. range: 60,000–100,000 kg/yr.

Y 93–195

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Polybutylene phthalate copolymer.

Use/Production. (G) Polymer for extrusion, coatings, and adhesives. Prod. range: Confidential.

Y 93–196

Manufacturer. The Dow Chemical Company.

Chemical. (G) Thermoplastic polyurethane elastomer resin.

Use/Production. (S) Injection molding of plastic articles and extrusion of plkastic profiles. Prod. range: Confidential.

Y 93–197

Manufacturer. The Dow Chemical Company.

Chemical. (G) Thermoplastic polyurethane elastomer resin.

Use/Production. (S) Injection molding of plastic articles and extrusion of plastic profiles. Prod. range: Confidential.

Y 93–198

Manufacturer. Confidential.

Chemical. (G) Alkyl carboxylic acid-alkyl methacrylate copolymer, ammonia salt.

Use/Production. (S) Formulation waterborne coating for metal surfaces. Prod. range: Confidential.

Y 93–199

Manufacturer. Confidential.

Chemical. (G) Isophthalic acid acid, trimelltic anhydride, aliphatic glycols and polyol polymer.

Use/Production. (G) Coating binder. Prod. range: Confidential.

Dated: September 7, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–22790 Filed 9–16–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59325; FRL–4643–1]

Certain Chemicals; Application of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES:

Written comments by:

T 93–21, August 28, 1993.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–59325)" and the specific TME number should be sent to: Document Control Office, (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099, Washington, DC., 20460, (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St. SW., Washington, DC., 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC) ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T–93–21

Close of Review Period. September 11, 1993.

Manufacturer. Confidential.

Chemical. (S) Sodium perthiocarbonate.

Use/Production. (G) Oil field additive.

Dated: August 30, 1993.

Frank V. Caesar,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–22783 Filed 9–16–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–51821; FRL–4640–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 103 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93–935, 93–936, July 25, 1993.
P 93–937, July 26, 1993.
P 93–938, 93–939, 93–940, July 25, 1993.
P 93–941, 93–942, July 26, 1993.
P 93–943, July 27, 1993.
P 93–944, July 26, 1993.
P 93–945, 93–946, 93–947, July 27, 1993.
P 93–948, 93–949, July 28, 1993.
P 93–950, August 10, 1993.
P 93–951, July 28, 1993.
P 93–952, 93–954, August 1, 1993.
P 93–955, July 31, 1993.
P 93–956, 93–957, 93–958, 93–959, August 1, 1993.
P 93–960, August 2, 1993.
P 93–961, August 1, 1993.
P 93–962, 93–963, August 2, 1993.
P 93–964, August 1, 1993.
P 93–965, 93–966, August 4, 1993.
P 93–967, August 3, 1993.
P 93–969, August 2, 1993.
P 93–970, August 11, 1993.
P 93–971, 93–972, 93–973, 93–974, 93–975, 93–976, 93–977, 93–978, 93–979, 93–980, 93–981, August 4, 1993.
P 93–982, August 2, 1993.
P 93–983, 93–984, 93–985, August 4, 1993.
P 93–986, August 7, 1993.
P 93–988, 93–989, 93–990, 93–991, 93–992, 93–993, 93–994, 93–995, August 8, 1993.
P 93–996, 93–997, 93–998, 93–999, 93–1000, 93–1001, 93–1002, August 9, 1993.
P 93–1003, July 10, 1993.
P 93–1004, 93–1005, 93–1006, 93–1007, 93–1008, 93–1009, 93–1010, August 9, 1993.
P 93–1011, August 10, 1993.
P 93–1012, 93–1013, August 9, 1993.
P 93–1014, 93–1015, 93–1016, 93–1017, 93–1018, 93–1019, 93–1020, August 10, 1993.
P 93–1021, August 16, 1993.
P 93–1022, 93–1023, 93–1024, 93–1025, 93–1026, 93–1027, August 11, 1993.
P 93–1028, 93–1029, 93–1030, August 14, 1993.
P 93–1031, 93–1032, 93–1033, 93–1034, 93–1035, 93–1036, 93–1037, 93–1038, 93–1039, August 15, 1993.
P 93–1040, August 16, 1993.

Written comments by:

P 93–935, 93–936, June 25, 1993.
P 93–937, June 26, 1993.
P 93–938, 93–939, 93–940, June 25, 1993.
P 93–941, 93–942, June 26, 1993.
P 93–943, June 27, 1993.
P 93–944, June 26, 1993.
P 93–945, 93–946, 93–947, June 27, 1993.
P 93–948, 93–949, June 28, 1993.
P 93–950, July 11, 1993.
P 93–951, June 28, 1993.
P 93–952, 93–954, July 2, 1993.
P 93–955, July 1, 1993.
P 93–956, 93–957, 93–958, 93–959, July 2, 1993.
P 93–960, July 3, 1993.
P 93–961, July 2, 1993.
P 93–962, 93–963, July 3, 1993.
P 93–964, July 2, 1993.
P 93–965, 93–966, July 5, 1993.
P 93–967, July 4, 1993.
P 93–969, July 3, 1993.
P 93–970, July 12, 1993.
P 93–971, 93–972, 93–973, 93–974, 93–975, 93–976, 93–977, 93–978, 93–979, 93–980, 93–981, July 5, 1993.
P 93–982, July 3, 1993.
P 93–983, 93–984, 93–985, July 5, 1993.
P 93–986, July 8, 1993.
P 93–988, 93–989, 93–990, 93–991, 93–992, 93–993, 93–994, 93–995, July 9, 1993.
P 93–996, 93–997, 93–998, 93–999, 93–1000, 93–1001, 93–1002, July 10, 1993.
P 93–1003, June 10, 1993.
P 93–1004, 93–1005, 93–1006, 93–1007, 93–1008, 93–1009, 93–1010, July 10, 1993.
P 93–1011, July 11, 1993.
P 93–1012, 93–1013, July 10, 1993.
P 93–1014, 93–1015, 93–1016, 93–1017, 93–1018, 93–1019, 93–1020, July 11, 1993.

P 93–1021, July 17, 1993.
P 93–1022, 93–1023, 93–1024, 93–1025, 93–1026, 93–1027, July 12, 1993.
P 93–1028, 93–1029, 93–1030, July 15, 1993.
P 93–1031, 93–1032, 93–1033, 93–1034, 93–1035, 93–1036, 93–1037, 93–1038, 93–1039, July 16, 1993.
P 93–1040, July 17, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51821]" and the specific PMN number should be sent to: Document Control Office (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099, Washington, DC., 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC., 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–935

Manufacturer. Minnesota Mining and Manufacturing Co..
Chemical. (S) Methacrylic acid isooctylacrylate zinc oxide aizoctyl thioglyciolate azodiisobutyronitrile.
Use/Production. (G) Adhesive. Prod. range: Confidential.
Toxicity Data. Skin irritation: slight (rabbit). Skin sensitization: negative (guinea pig).

P 93–936

Manufacturer. Henkel Corporation.
Chemical. (G) Aliphatiic amine adducts.
Use/Production. (G) Water based epoxy curing agent. Prod. range: Confidential.

P 93–937

Manufacturer. Pi-Tech, Inc.
Chemical. (S) Butanolato oligo oxyethyene hydroxy acetate.
Use/Production. (S) Non volatile coalescent for latex coatings. Prod. range: Confidential.

P 93–938

Manufacturer. Confidential.
Chemical. (G) Polyester urethane polymer.
Use/Production. (G) Adhesive for flexible substrates. Prod. range: Confidential.

P 93–939

Manufacturer. Confidential.
Chemical. (G) Cyclic aliphatic polyester.
Use/Production. (G) Polyester intermediate. Prod. range: Confidential.

P 93–940

Manufacturer. Confidential.
Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–941

Importer. Confidential.
Chemical. (S).
Use/Import. (G) Dyes for fibers. Import range: Confidential.
Toxicity Data. Acute oral: LD50 > 1,000 mg/kg (rat). Mutagenicity: positive.

P 93–942

Importer. Powdertech Corporation.
Chemical. (S) Fatty acids, dehydrated castor-oil, polymers with benzoic acid, acrylate, glycerol, 2-hydroxyethyl acrylate, 2-hydroxyethyl methacrylate, iso bu methacrylate, linseed oil, methacrylic acid, pentaerythritol, phthalic anhydride and styrene.
Use/Import. (S) Coating resin of carrier particles for controlling resistance of the particles for electrographic. Import range: 1,500–3,000 kg/yr.

P 93–943

Manufacturer. Exxon Chemical Company.
Chemical. (S) 2-Amino-2-methyl propanoic acid, potassium salt potassium 2-amino-2-methyl propionate 2-aminoisobutyric acid, potassium salt aminoisobutyric acid, potassium salt.
Use/Production. (S) Scrubbing for gas C_{O2} emissions in industry scrubbing produced natural and associated gas in oil fields. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 3,333 mg/kg (rat). Eye irritation: moderate (rabbit). Skin irritation: slight (rabbit). Mutagenicity: negative. Skin sensitization: positive (guinea pig).

P 93–944

Importer. Confidential.
Chemical. (G) Acrylic polymer, ammonium salt.
Use/Import. (S) Thickner for pigment prints on fibers. Import range: 500–1,000 kg/yr.

P 93–945

Importer. Xerox Corporation.
Chemical. (G) Styrene/acrylates polymer.
Use/Import. (G) Component in reprographic developers. Import range: Confidential.

P 93–946

Importer. Xerox Corporation.
Chemical. (G) Styrene/acryloyl/ acrylates polymer.
Use/Import. (G) Component in reprographic developers. Import range: Confidential.

P 93–947

Manufacturer. Xerox Corporation.
Chemical. (G) Polyester resin.
Use/Production. (G) Component xerographic toners. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 5.0 g/kg (rat). Acute Static: LC50 96h 1,000 mg/l (rainbow trout). Eye irritation: none (rabbit).

P 93–948

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyamine polymer.
Use/Production. (G) Open, nondispersive use as an energy production chemical. Prod. range: Confidential.

P 93–949

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyamine polymer.
Use/Production. (G) Open, nondispersive use as an energy production chemical. Prod. range: Confidential.

P 93–950

Manufacturer. Confidential.
Chemical. (G) Polyurethane prepolymer salt.
Use/Production. (G) A destructive use polyurethane intermediate. Prod. range: Confidential.

P 93–951

Manufacturer. Confidential.
Chemical. (G) Polyurethane salt.
Use/Production. (G) Open, nondispersive use as a polyurethane surface coating. Prod. range: Confidentiakl.

P 93–952

Importer. Tioxide Specialties LTD.
Chemical. (S) Di-*N*-butoxy titanium bis (2,4 pentanedionate).
Use/Import. (S) Cross-linking agent for silicone sealants. Import range: Confidential.

P 93–954

Manufacturer. Goldschmidt Chemical Corporation.

Chemical. (G) Acrylated polysiloxane.
Use/Production. (G) Contained and nondispersive, open use. Prod. range: Confidential.

P 93–955

Importer. Ciba-Geigy Corporation.
Chemical. (G) Formaldehyde, polymer with substituted phenols, glycidyl ether.
Use/Import. (G) Binder for substances for electronic component assembly. Import range: Confidential.

P 93–956

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use/Production. (S) Spray applied coatings. Prod. range: 40,000–120,000 kg/yr.
Toxicity Data. Eye irritation: Slight (rabbit).

P 93–957

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use/Production. (S) Spray applied coatings. Prod. range: 40,000–120,000 kg/yr.

P 93–958

Manufacturer. Confidential.
Chemical. (G) Blocked aliphatic polyurethane oxime-aliphatic polyurethane oxime-blocked aliphatic polyurethane prepolymer.
Use/Production. (G) Additive for sealants and adhesivess in open, nondispersive use. Prod. range: Confidential.

P 93–959

Manufacturer. Confidential.
Chemical. (G) Hindered alkyl-substituted phenolic antioxidant.
Use/Production. (G) Foam additive. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute dermal: LD50 > 2.0 g/kg (rabbit). Eye irritation: Slight (rabbit). Skin irritation: Slight (rabbit).

P 93–960

Manufacturer. KMG Minerals, Inc.
Chemical. (S) Reaction product between mica and silane, triethoxy (3-oxiranylmethoxy)propyl)-this silane will be referred to as glycidoxy silane in the rest of this PMN.

P 93–961

Manufacturer. The P. D. George Company.
Chemical. (S) Soybean oil; heat-reactive phneolic resin; phenol; para-tert buty phenol paraformaldehyde.
Use/Production. (S) Insulating varnish for coating of electrical equipment. Prod. range: 15,000 kg/yr.

P 93–962

Manufacturer. Henkel Corporation.
Chemical. (G) Alkyl polyamide.
Use/Production. (G) Thermoplastic resin, for use in ink and adhesive applications. Prod. range: Confidential.

P 93–963

Importer. Confidential.
Chemical. (G) Isothiazolinone.
Use/Import. (G) Preservative. Import range: Confidential.
Toxicity Data. Acute oral: LD50 224 mg/kg (rat). Acute dermal: LD50 > 400 mg/kg (rat). Acute Static: EC50 > 1. mg/l (Daphnia magna). Eye irritation: Strong (rabbit). Skin irritation: Negligible (rabbit). Mutagenicity: Negative. Skin sensitization: Positive (guinea pig).

P 93–964

Manufacturer. Confidential.
Chemical. (S) Brominated polystyrene.
Use/Production. (G) Polymer additive. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Eye irritation: Slight (rabbit).

P 93–965

Manufacturer. H.B. Fuller Company.
Chemical. (G) Polymer of an epoxide-terminated polyether, fatty acide C_{18}–unsaturated reaction products with polyamines, and an alkylpolyamine.
Use/Production. (S) Curing agent. Prod. range: Confidential.

P 93–966

Importer. Ciba-Geigy Corporation.
Chemical. (G) Formaldehyde, polymer with substituted phenols.
Use/Import. (G) Binder for substrates for electronic conmponent assembly. Import range: Confidential.

P 93–967

Manufacturer. G E Silicones.
Chemical. (S) Siloxanes and silicones, DiMe, Me 2(7-oxabiscyclo(4,o) hept-3-yl)ethyl,.
Use/Production. (S) Dehesive coating on paper and film substrates. Prod. range: 35,000–45,000 kg/yr.

P 93–969

Importer. AKZO Resins.
Chemical. (G) Polyester resin.
Use/Import. (S) Vehicle for toners used in electric photographic copiers. Import range: Confidential.

P 93–970

Importer. DNP (America), Inc.
Chemical. (G) *N*-Amino-pyridone.
Use/Import. (S) Colorant in thermal transfer ink film. Import range: 100–500 kg/yr.
Toxicity Data. Acute oral: LD50 >2,000 mg/kg (rat). Acute dermal: LD50 >2,000 mg/kg (rat). Eye irritation: none (rabbit). Skin irritation: Negligible (rabbit).

P 93–971

Manufacturer. Confidential.
Chemical. (G) Isocyanate-terminate polyether polyurethane.
Use/Production. (G) Adhesive coreactant. Prod. range: Confidential.

P 93–972

Importer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Import. (G) Paint. Import range: Confidential.

P 93–973

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Final product synethesis. Prod. range: 300,000–600.000 kg/yr.

P 93–974

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanate, polyols and polyamines.

P 93–975

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane.

P 93–976

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane.

P 93–977

Manufacturer. Sanncor Industries. Inc.
Chemical. (G) Polyurethane.

P 93–978

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyante, polyols and polyamines.

P 93–979

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanate, and polyols.

P 93–980

Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanate.

P 93–981

Manufacturer. Sanncor Industrial, Inc.
Chemical. (G) Polyurethane.

P 93–982

Manufacturer. MTM Hardwicke, Inc.
Chemical. (S) *M*-Chlorobenzaldehyde.
Use/Production. (S) Intermediate for the manufacture of loratadine. Prod. range: 25,000–50,000 kg/yr.

P 93–983

Manufacturer. MTM Hardwicke, Inc.

Chemical. (S) *M*-Chlorobenzyl alcohol.

Use/Production. (S) Intermediate for the manufacture of loratadine. Prod. range: 25,000–50,000 kg/yr.

P 93–984

Manufacturer. Confidential.

Chemical. (G) Polyurethane resin.

Use/Production. (S) Spray applied coating. Prod. range: 480,000–720,000 kg/yr.

P 93–985

Manufacturer. Confidential.

Chemical. (G) Polyurethane resin.

Use/Production. (S) Spray applied coatings. Prod. range: 480,000–720,000 kg/yr.

P 93–986

Manufacturer. BASF Corporation.

Chemical. (G) *N,N'*–Alkanediyl bis(*N*-(hetero)- formamide.

Use/Production. (G) Stabilizer for plastics. Prod. range: Confidential.

P 93–988

Importer. E. I. duPont de Nemours & Company.

Chemical. (G) Sodium salt of alkylheteromonocyclicthione.

Use/Import. (G) Water repellant surface treatment. Import range: Confidential.

P 93–989

Importer. Confidential.

Chemical. (G) Diethanolamine salt of phosphated polycaprolactone.

Use/Import. (G) Dispersant. Import range: Confidential.

Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute dermal: LD50 > 2,000 mg/kg (rat). Eye irritation: None (rabbit). Skin irritation: Negligible (rabbit). Skin sensitization: positive (guinea pig).

P 93–990

Manufacturer. Confidential.

Chemical. (G) Amine-salted polyester resin.

Use/Production. (S) Spray applied coating. Prod. range: 120,000–240,000 kg/yr.

P 93–991

Manufacturer. Confidential.

Chemical. (G) Amine-salted polyester resin.

Use/Production. (S) Spray applied coatings. Prod. range: 120,000–240,000 kg/yr.

P 93–992

Manufacturer. Minnesota Mining And Manufacturing Co.

Chemical. (G) Substituted hydrazone.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93–993

Manufacturer. Minnesota Mining And Manufacturing Co.

Chemical. (G) Modified vinyl pyridine polymer.

Use/Production. (G) Film coating additive. Prod. range: Confidential.

P 93–994

Manufacturer. Confidential.

Chemical. (G) Polyurethane modified polyester resin.

Use/Production. (S) Low profile additive to controla shrinking of sheet metal compounds. Prod. range: Confidential.

P 93–995

Manufacturer. Confidential.

Chemical. (G) Polyurethane modified polyester resin.

Use/Production. (S) Low profile additive to control shrinkage of sheet compounds. Prod. range: Confidential.

P 93–996

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkenoic esters and styrene.

Use/Production. (G) Component of coating with open use. Prod. range: 64,000 kg/yr.

P 93–997

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkenoic esters and styrene.

Use/Production. (G) Component of coating with open, use. Prod. range: 64,000 kg/yr.

P 93–998

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkenoic esters and styrene.

Use/Production. (G) Component of coating with open use. Prod. range: 64,000 kg/yr.

P 93–999

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkenoic esters and styrene.

P 93–1000

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkenoic esters and styrene.

Use/Production. (G) Component of coating with open use. Prod. range: 64,000 kg/yr.

P 93–1001

Manufacturer. Confidential.

Chemical. (G) Modified polymer of alkenoic esters and styrene.

Use/Production. (G) . Prod. range: 64,000 kg/yr.

P 93–1002

Manufacturer. Sanncor Industries, Inc.

Chemical. (G) Polyurethane based on polyisocyanate, polyols and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1003

Manufacturer. Sanncor Industries. Inc..

Chemical. (G) Polyurethane based on polyisocyanate. polyols and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1004

Manufacturer. Sanncor Industries, Inc..

Chemical. (G) Polyurethane based on polyisocyanate, polyols and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1005

Manufacturer. Sanncor Industries, Inc.

Chemical. (G) Polyurethane based on polyisocyante, polyols and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1006

Manufacturer. Sanncor Industries, Inc.

Chemical. (G) Polyurethane based on polyisocyante, polyols and polyamines.

P 93–1007

Manufacturer. Confidential.

Chemical. (G) olyyurethane based on polyisocyante, polyols and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1008

Manufacturer. Confidential.

Chemical. (G) Polyurethane based on polyisocyante, polyols and polys and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1009

Manufacturer. Confidential.

Chemical. (G) Polyurethane based on polyisocyante, polyols, and polyamines.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1010

Manufacturer. Morton International, Inc.

Chemical. (S) Methyl alkyl componud.

Use/Production. (S) Organometallic source for the deposition of compounfsemiiconductor film. Prod. range: 100–1,000 kg/yr.

P 93–1011

Importer. BASF Corporation.
Chemical. (G) Self-crosslining butadine styrene copolymer.
Use/Import. (S) Binder for nonwovens. Import range: Confidential.

P 93–1012

Manufacturer. Confidential.
Chemical. (G) Acrylate functional polyurethane resin.
Use/Production. (G) Industrial coating for open, nonsdispersive use. Prod. range: Confidential.

P 93–1013

Importer. Dow Corning corporation.
Chemical. (S) Siloxanes and silicones, di-Me, 5-hexenyl Me.
Use/Import. (S) Silicone release coating. Import range: Confidential.

P 93–1014

Manufacturer. Confidential.
Chemical. (G) Substituted aryl sulfonic acid.
Use/Production. (G) Additive for refinery hydrocarbons. Prod. range: Confidential.

P 93–1015

Importer. Unichema North America.
Chemical. (G) Coco ethyl glucoside ester.
Use/Import. (G) Dispersive use - surface active agent. Import range: Confidential.

P 93–1016

Importer. Unichema North America.
Chemical. (G) Tallow ethyl glucoside ester.
Use/Import. (G) Dispersion use - surface active agent. Import range: Confidential.

P 93–1017

Importer. Unichema North America.
Chemical. (G) C_{10} ethyl glucoside ester.
Use/Import. (G) Dispersive use - surface active agent. Import range: Confidential.

P 93–1018

Importer. Unichema North America.
Chemical. (G) C_{12} ethyl glucoside esterr.
Use/Import. (G) Dispersive use - surface active agent. Import range: Confidential.

P 93–1019

Importer. Unichema North America.
Chemical. (G) C_{14} ethyl glucoside ester.

P 93–1020

Importer. Unichema North America.
Chemical. (G) Oleyl ethyl glucoside ester.
Use/Import. (G) Dispersive use - surface active agent. Import range: Confidential.

P 93–1021

Manufacturer. Texaco Inc..
Chemical. (G) Product produced from the liquifaction of a slury of tire polymers in oil to produce a hydrocarbon stream primarily in the range of C_{20} to C_{50} contining up to 18% carbon black of boiling range of 535 32%F.
Use/Production. (S) Gasification feedstock (thermal conversion to Co & H_2) distillation to fuel asphalt extender. Prod. range: 230,000 kg/yr.

P 93–1022

Manufacturer. Confidential.
Chemical. (G) Polyether polyurethane.
Use/Production. (G) Clothing, adhesive patches, gloves. Prod. range: Confidenttial.

P 93–1023

Importer. Reichhold Chemicals, Inc.
Chemical. (G) Polyester polyurethane.
Use/Import. (G) Polyurethane for adhesive. Import range: Confidential.

P 93–1024

Manufacturer. Confidential.
Chemical. (G) Amindoamine ester quat.
Use/Production. (S) Fabric softener, hair conditioner. Prod. range: Confidential.

P 93–1025

Manufacturer. Confidential.
Chemical. (G) Amidoamine ester quat.
Use/Production. (S) Fabric softener, hair conditioner. Prod. range: Confidential.

P 93–1026

Manufacturer. Confidential.
Chemical. (G) Amidoamine ester quat.
Use/Production. (S) Fabric softener, hair conditioner. Prod. range: Confidential.

P 93–1027

Manufacturer. Confidential.
Chemical. (G) Amidoamine.
Use/Production. (S) Fabric softener, hair conditioner. Prod. range: Confidential.

P 93–1028

Manufacturer. Confidential.
Chemical. (G) Cycloaliphatic diamine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 93–1029

Manufacturer. Confidential.
Chemical. (S) Alkoxylated alkylphenol.
Use/Production. (G) Gasoline additive (intermediate). Prod. range: Confidential.

P 93–1030

Importer. Confidential.
Chemical. (G) Polyol resin.
Use/Import. (G) Ingredient for copier toner and copier developer. Import range: Confidential.

P 93–1031

Manufacturer. Confidential.
Chemical. (G) Poly amine poly amide.
Use/Production. (S) Fiberglass lubricant. Prod. range: Confidential.

P 93–1032

Manufacturer. Amoco Chemical Company.
Chemical. (G) Polyphthalamide.
Use/Production. (G) Manufacture of molded parts, polymer intermediate extruded shapes. Prod. range: Confidential.

P 93–1033

Importer. Evode-Tanner, Inc.
Chemical. (G) Prepolymer of polyester resin and aromatic isocanate.
Use/Import. (S) Reactive hot melts for automobile industry and textiles industry. Import range: 10,000–20,000 kg/yr.

P 93–1034

Importer. Evode-Tanner, Inc.
Chemical. (G) Prepolymer of polyester resin and aromatic isocyanate.
Use/Import. (S) Reactive hot melts for automobile industry and textiles industry. Import range: 10,000–20,000 kg/yr.

P 93–1035

Importer. Evode-Tanner, Inc..
Chemical. (G) Prepolymer of polyester resin and aromatic isocyanate.
Use/Import. (S) Reactive hot melts for automobile industry and textiles industry. Import range: 10,000–2,000 kg/yr.

P 93–1036

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Polyurethane resin.
Use/Production. (G) Hot melt adhesive. Prod. range: Confidential.

P 93–1037

Manufacturer. Confidential.
Chemical. (S) Phenol, 4,4'–(1,3-phenylenebis(1-methylethylidene))bis-(9CI).
Use/Production. (G) Phenolic intermediate. Prod. range: Confidential.

P 93–1038

Importer. Ciba-Geigy Corporation.

Chemical. (G) Cyclohexane, 5-isoyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-homopolymer.

Use/Import. (S) Resin component for soldermask for production on printed wiring boards. Import range: Confidential.

P 93–1039

Manufacturer. American Polymers Corporation.

Chemical. (G) Aliphatic polyurethane coating.

Use/Production. (S) Waterproofing coating substrate coating. Prod. range: Confidential.

P 93–1040

Manufacturer. Confidential.

Chemical. (G) Polyester urethane polymer.

Use/Production. (G) Adhesive for flexible substrates. Prod. range: Confidential.

Dated: September 13, 1993.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–22787 Filed 9–16–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Approved by the Office of Management and Budget

September 9, 1993.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). For further information, contact Judy Boley, Federal Communications Commission, (202) 632–0276.

OMB No.: 3060–0057

Title: Specialized Mobile Radio System (SMRS) End User Survey A new survey has been approved for use through 10/31/93.

OMB No.: 3060–0084

Title: Ownership Report for Noncommercial Educational Broadcast Station

Form No.: FCC 323–E. The approval on FCC 323–E has been extended through 4/30/96. The November 1990 edition with the previous OMB expiration date of 4/30/93 will remain in use until updated forms are available.

OMB No.: 3060–0107

Title: Private Radio Application for Renewal, Reinstatement and/or Notification of Change to License Information

Form No.: FCC 405–A. A revised application form FCC 405–A has been approved for use through 5/31/96. The current edition of the form is June 1993.

OMB No.: 3060–0443

Title: Conditional Temporary Authorization to Operate a Part 90 Radio Station

Form No.: FCC 572–C. The approval on FCC 572–C has been extended through 5/31/96. The June 1990 edition with the previous OMB expiration date of 5/31/93 will remain in use until updated forms are available.

OMB No.: 3060–0061

Title: Annual Report of Cable Television Systems, Schedule A

Form No.: FCC 325. The approval on FCC 325 has been extended through 4/30/96. The Schedule A for Year 1992 with the previous OMB expiration date of 4/30/93 will remain in use until updated forms are available.

OMB No.: 3060–0009

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License

Form No.: FCC 316. A revised application form FCC 316 has been approved for use through 4/30/96. The June 1987 edition with the previous OMB expiration date of 4/30/90 will remain in use until revised forms are available.

OMB No.: 3060–0130

Title: Private Fixed, Mobile, and Radiolocation Services, Supplementary Information to FCC Form 574

Form No.: FCC 574–B. The approval on FCC 574–B has been extended through 8/31/96. The October 1982 edition with the previous OMB expiration date of 9/30/87 will remain in use until updated forms are available.

OMB No.: 3060–0139

Title: Request for Antenna Height Clearance and Obstruction Marking and Lighting Specifications

Form No.: FCC 854. A revised request form FCC 854 has been approved for use through 8/31/96. The May 1992 edition with the previous OMB expiration date of 4/30/95 will remain in use until revised forms are available.

William F. Caton,

Acting Secretary.

[FR Doc. 93–22746 Filed 9–16–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–362]

Announcement of Cooperative Agreement to the Pan American Health Organization

Summary

The Centers for Disease Control and Prevention (CDC), announces the availability of funds for fiscal year (FY) 1993 for a sole source cooperative agreement with the Pan American Health Organization (PAHO) to identify improved methods of reaching and sustaining high immunization coverage, interrupting disease transmission, and improving vaccine preventable diseases surveillance for the Americas. Approximately $160,000 will be available in FY 1993 to support this project. It is expected the award will begin on September 30, 1993, for a 12-month budget period within a 3-year project period. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

The purpose of this cooperative agreement is to stimulate high-quality operational and applied research to improve diagnosis, surveillance, and prevention of vaccine preventable diseases in the region of the Americas.

The CDC will collaborate in the design of research protocols, the analysis and interpretation of data generated from each project, and in the preparation of reports and manuscripts. The CDC will also provide other technical assistance in support of each project, as needed.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized under sections 301(a) and 307 of the Public Health Service Act (42 U.S.C. 241(a) and 242l), as amended.

Eligible Applicant

Assistance will be provided only to PAHO for this project. No other applications are solicited. The Program Announcement and application kit have been sent to PAHO.

PAHO is the most appropriate and qualified agency to conduct the activities under this cooperative agreement because:

A. PAHO coordinates international health activities for countries and territories of the Americas. Their access to member states and their public health programs is unique in this region.

B. The proposed program is strongly supportive of and directly related to the achievement of PAHO and CDC/ National Immunization Program research and development programs in vaccine preventable diseases and surveillance.

Executive Order 12372 Review

The application is not subject to review under Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 93.185, Immunization Research, Demonstration, Public Information, and Education, Training, and Clinical Skills Improvement Projects.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please refer to Program Announcement Number 362 and contact Eddie Wilder, Senior Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–16, Atlanta, Georgia 30305, telephone (404) 842–6805.

A copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the SUMMARY may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: September 13, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–22733 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–18–P

Food and Drug Administration

[Docket No. 93F–0297]

Hoechst Celanese Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hoechst Celanese Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *N*-[4-(aminocarbonyl)phenyl]-4-[[1-[[(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)amino]carbonyl]-2-oxopropyl]azo]benzamide (C.I. Pigment Yellow 181) as a colorant for all polymers.

DATES: Written comments on the petitioner's environmental assessment by October 18, 1993.

ADDRESSES: Submit 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: Richard H. White, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3B4393) has been filed by Hoechst Celanese Corp., 500 Washington St., Coventry, RI 02816. The petition proposes to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of *N*-[4-(aminocarbonyl)phenyl]-4-[[1-[[(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)amino]carbonyl]-2-oxopropyl]azo]benzamide (C.I. Pigment Yellow 181) as a colorant for all polymers.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before October 18, 1993, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 7, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–22678 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93F–0276]

Petrolite Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Petrolite Corp., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethoxylated primary linear alcohols of greater than 10 percent ethylene oxide by weight having molecular weights of 390 to 7,000 for use as components of food packaging adhesives.

DATES: Written comments on petitioner's environmental assessment by October 18, 1993.

ADDRESSES: Submit 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: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4390) has been filed by Petrolite Corp., 369 Marshall Ave., St. Louis, MO 63119–1897. The petition proposes to amend the food additive regulations to provide for the safe use of ethoxylated primary linear alcohols of greater than 10 percent ethylene oxide by weight having molecular weights of 390 to 7,000 for use as components of food packaging adhesives.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before October 18, 1993, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 7, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–22677 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0330]

Drug Export; Novantrone (Mitoxantrone Hydrochloride) Concentrate for Injection, 2 mg/mL, 10 mg/vial

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Immunex Corp. has filed an application requesting approval for the export of the human drug Novantrone (mitoxantrone hydrochloride) Concentrate for Injection, 10 mg/vial, to the United Kingdom (for transshipment to Belgium, Luxembourg, and the Netherlands) and to Germany (for transshipment to Austria).

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Immunex Corp., 51 University St., Seattle, WA 98101, has filed an application requesting approval for the export of the human drug Novantrone (mitoxantrone hydrochloride) Concentrate for Injection, 10 mg/vial, to the United Kingdom (for transshipment to Belgium, Luxembourg, and the Netherlands) and to Germany (for transshipment to Austria). The firm has approval for Novantrone Concentrate for Injection in the following sizes: 20 mg/vial, 25 mg/vial, and 30 mg/vial. Novantrone is an antineoplastic agent indicated in the treatment of advanced breast cancer, non-Hodgkin's lymphoma, and adult acute non-lymphocytic leukemia. The application was received and filed in the Center for Drug Evaluation and Research on August 24, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by September 27, 1993, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: September 2, 1993.

Charma A. Konnor,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 93–22742 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting of an Ad Hoc Subcommittee of the National Deafness and Other Communication Disorders Advisory Council

Pursuant to Public Law 92–463, notice is hereby given of a meeting of an ad hoc subcommittee of the National Deafness and Other Communication Disorders Advisory Council on September 16, 1993. The meeting will be held as a telephone conference call in room 430, 6120 Executive Boulevard, Rockville, Maryland.

The meeting will be open to the public from 8:30 a.m. to adjournment at approximately 12:30 p.m. The meeting is being held to discuss concept clearance of "Communication Disorders Subsequent to Congenital Toxoplasmosis Infection: A Population-Based Study."

Further information concerning the meeting may be obtained from Ms. Anne Summer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 9000 Rockville Pike, Building 31, room 3C02, Bethesda, Maryland 20892, 301–402–0495. A summary of the meeting and roster of the members may also be obtained from her office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Ms. Sumner.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: September 9, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–22688 Filed 9–16–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, September 10,1993.

Copies of the information collection requests may be obtained by calling the PHS Reports Clearance Officer on (202) 690–7100.

1. HHS/Payment Management System Forms—0937–0200–The Payment Management System (PMS) is used to make advance or reimbursement payments to grantees. It serves in place of the SF–270. The PMS–272 is used to monitor cash advances made to grantees and to collect disbursement data. It serves in place of the SF–272. Respondents: State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organization; Number of Respondents: 11,000; Number of Responses per Respondent: 3.26; Average burden per Response: 4.25 hours; Estimated Annual Burden: 152,220 hours.

2. Studies of Immunotoxicity in Occupational Groups—New—A number of chemicals to which U.S. workers are potentially exposed have been found to be immunotoxic. The data collected in these studies may assist in recommendations regarding the safe level of exposure to specific chemicals of interest and in formulating guidelines for risk assessments of potential immunotoxins based on the extrapolation of animal data to humans. Respondents: Individuals or households; Number of Respondents: 600; Number Of Responses per Respondent: 1; Average Burden per Response: .5 hour; Estimated Annual Burden: 300 hours.

3. National Survey of Ambulatory Surgery—New—The National Survey of Ambulatory Surgery will provide detailed information on the socio-demographics of ambulatory surgery, the volume of various procedures, and the diagnoses of persons being treated in hospital-based and freestanding ambulatory surgery centers. These data will be available in written reports and on public tapes. Respondents: Businesses or other for-profit, Non-profit institutions, Number of Respondents: 285; Number of Responses per Respondent: 619; Average Burden per Response: .1418 hour; Estimated Annual burden: 25,000 hours.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated below at the following address: Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: September 13, 1993

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 93–22748 Filed 9–16–93; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–92–3369; FR–3180–N–02]

Community Development Block Grant; Program for Indian Tribes and Alaskan Native Villages; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Community Development Block Grant Program for Indian tribes and Alaskan native villages for Fiscal Years 1991 and 1992. The announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: September 17, 1993.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Director, Housing Development Division, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0596. The TDD number for the hearing impaired is (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide financial assistance to Indian tribes and Alaskan native villages.

The awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on April 7, 1992, at 57 FR 11852. Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as set forth at the end of this notice.

Dated: September 10, 1993.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Grantee	Grant No.	Amount
Region V		
Florida:		
Miccosukee Tribe of Indians of Florida, PO Box 44021, Miami, FL 33144	B–92–SR–12–0101	$300,000.00
Seminole Tribe of Florida, 6073 Stirling Road, Hollywood, FL 33024	B–92–SR–12–0201	300,000.00
Maine:		
Indian Township, Passamaquoddy Tribe, PO Box 301, Princeton, ME 04668	B–91–SR–23–0101	240,059.00
Michigan:		
Grand Traverse Band of Ottawa and Chippewa Indians, Route 1 Box 135, Suttons Bay, MI 49682	B–91–SR–26–0201	300,000.00
Lac Vieux Desert Band of Chippewa Indians, PO Box 446-Choate Road, Watersmeet, MI 49969	B–92–SR–26–0501	300,000.00
Minnesota:		
Bois Forte Reservation, PO Box 16, Nett Lake, MN 55772	B–91–SR–27–0101	300,000.00
Leech Lake Reservation, Tribal Council, Route 3 Box 100, Cass Lake, MN 56633	B–91–SR–27–0201	300,000.00
Prairie Island Tribal Council, 5750 Sturgeon Lake, Welch, MN 55089	B–91–SR–27–0301	$300,000.00
White Earth Reservation Tribal Council, P.O. Box 418, White, Earth, MN 56591	B–91–SR–27–0601	276,941.00
	B–92–SR–27–0601	23,059.00
Total Grant		300,000.00
Mississippi:		
Mississippi Band of Choctaw Indians, P.O. Box 39350, Philadelphia, MS 39350	B–92–SR–28–0101	300,000.00
New York:		
Seneca Nation of Indians, P.O. Box 1490 Route 438, Irving, NY 14081	B–92–SR–36–0201	300,000.00
North Carolina:		
Eastern Band of Cherokee Indians, P.O. Box 445, Cherokee, NC 28719	B–92–SR–37–0101	300,000.00
Wisconsin:		
Bad River Chippewa Tribe, P.O. Box 39, Odanah, WI 54861	B–91–SR–55–0101	300,000.00
Forest County Potawatomi Community, P.O. Box 345, Crandon, WI 54520	B–92–SR–55–0201	200,000.00
Lac Courte Oreilles Band of Lake Superior Ojibwa Indians, Route 2 Box 2700, Hayward, WI 54843	B–91–SR–55–0401	300,000.00
Red Cliff Band of Lake Superior Chippewa, P.O. Box 529, Bayfield, WI 54814	B–92–SR–55–0701	300,000.00

The location of grant files and contact person for any information regarding Region V grants listed above is: Issac Pimentel, Director, Housing and Community Development Division, Office of Indian Programs, Chicago Regional Office, 77 West Jackson Blvd., Chicago, Illinois 60604, Telephone (312) 353–1683.

Region VI		
Oklahoma:		
Apache Tribe, P.O. Box 1220, Anadarko, OK 73005	B–92–SR–40–0010	384,761.00
Caddo Tribe, P.O. Box 487, Binger, OK 73009	B–92–SR–40–0011	400,000.00
Cherokee Nation, PO Box 948, Tahlequah, OK 74465	B–91–SR–40–0007	700,000.00
Cheyenne-Arapaho, PO Box 38, Concho, OK 73022	B–92–SR–40–0003	500,000.00
Chickasaw Nation, PO Box 1548, Ada, OK 74820	B–92–SR–40–0007	700,000.00
Creek Nation, PO Box 580, Okmulgee, OK 74447	B–92–SR–40–0012	700,000.00
Choctaw Nation, PO Box 1210, Durant, OK 74702	B–91–SR–40–0001	700,000.00
Comanche Tribe, PO Box 908, Lawton, OK 83502	B–91–SR–40–0005	418,500.00
Kaw Tribe, PO Box 50, Kaw City, OK 74641	B–91–SR–40–0009	355,826.00
Kickapoo Tribe, PO Box 70, McLoud, OK 74851	B–92–SR–40–0009	400,000.00
Miami Tribe, PO Box 1326, Miami, OK 74355	B–91–SR–40–0006	400,000.00
Osage Nation, 627 Grandview, Pawhuska, OK 74056	B–91–SR–40–0002	404,000.00
Otoe-Missouria Tribe, Route 1, Box 62, Red Rock, OK 74651	B–92–SR–40–0008	271,865.00
Ponca Tribe, Box 2, White Eagle, Ponca City, OK 74601	B–91–SR–40–0010	392,214.00
	B–92–SR–40–0001	7,786.00
Total grant		400,000.00
Sac & Fox Nation, Route 2, Box 246, Stroud, OK 75079	B–92–SR–40–0004	445,603.00
Seneca-Cayuga Tribe, PO Box 1283, Miami, OK 74355	B–91–SR–40–0004	400,000.00
Seminole Nation, PO Box 1498, Wewoka, OK 74884	B–92–SR–40–0002	500,000.00
Tonkawa Tribe, PO Box 70, Tonkawa, OK 74653	B–92–SR–40–0006	384,762.00
Wichita Tribe, PO Box 729, Anadarko,OK 73005	B–91–SR–40–0008	400,000.00
Wyandotte Tribe, PO Box 250, Wyandotte, OK 74370	B–91–SR–40–0003	400,000.00
Iowa Tribe of KS & NE, Route 1, Box 58–A, White Cloud, KS 66094	B–91–SR–20–0001	400,000.00
Sac & Fox Nation of KS, Rural Route 1, Box 60, Reserve, KS 66434	B–92–SR–20–0001	400,000.00
Louisiana:		
Chitimacha Tribe, PO Box 661, Charenton, LA 80523–6691	B–91–SR–22–0001	351,460.00
Missouri:		
Eastern-Shawnee Tribe, PO Box 350, Seneca MO 64865	B–92–SR–40–0005	160,223.00
Texas:		
Alabama-Coushattta Tribe of Texas, Route 3, Box 640, Livingston, TX 77351	B–92–SR–48–0001	400,000.00

The location of grant files and contact persons for any information regarding the grants listed above is: Jules Valdez, Oklahoma City Office, Indian Programs Division, 200 N.W. 5th, Oklahoma City, OK 73102–3202, Telephone (405) 231–5968.

Region VIII		
Montana:		
Assiniboine & Sioux Tribes, PO Box 1027, Poplar, MT 59255	B–91–SR–30–0005	773,298.00

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM—Continued

Grantee	Grant No.	Amount
Blackfeet Tribe, PO Box 850, Browning, MT 59417	B–91–SR–30–0004	800,000.00
Chippewa Cree Tribe, PO Box 544, Box Elder, MT 59521	B–91–SR–30–0002	500,000.00
Fort Belknap Tribe, PO Box 66, Harlem, MT 59526	B–91–SR–30–0001	800,000.00
Northern Cheyenne Tribe, PO Box 128, Lame Deer, MT 59043	B–92–SR–30–0003	800,000.00
Salish & Kootenai Tribes, PO Box 38, Pablo, MT 59855	B–92–SR–30–0006	800,000.00
Nebraska:		
Omaha Tribe, Macy, NE 68039	B–92–SR–31–0002	358,950.00
North Dakota:		
Devils Lake Sioux Tribe, Fort Totten, ND 58335	B–91–SR–38–0002	739,260.00
Three Affiliated Tribes HC 3 Box 2, New Town, ND 58763	B–91–SR–38–0001	800,000.00
Turtle Mountain Band of Chippewa Indians, PO Box 900, Belcourt, ND 58316	B–92–SR–38–0003	120,492.00
South Dakota:		
Cheyenne River Sioux Tribe, PO Box 590, Eagle Butte, SD 57625	B–91–SR–46–0007	350,000.00
Sisseton-Wahpeton Sioux Tribe, PO Box 509, Agency Village, SD 57262	B–92–SR–46–0006	800,000.00
Yankton Sioux Tribe, PO Box 261, Marty, SD 57361	B–92–SR–46–0004	600,000.00
Wyoming:		
Northern Arapahoe Tribe, PO Box 396, Fort Washakie, WY 82514	B–9–SR–56–0001	397,442.00
	B–92–SR–56–0001	402,558.00
Total grant	.....	800,000.00
Shoshone Tribe, PO Box 538, Fort Washakie, WY 82514	B–92–SR–56–0002	800,000.00
Utah:		
Ute Indian Tribe, PO Box 190, Fort Duchesne, UT 84026	B–92–SR–49–0001	400,000.00
Southern Ute Tribe, PO Box 737, Ignacio, Colorado 81137	B–92–SR–08–0001	$400,000.00

The location of grant files and contact person for any information regarding the grants listed above is: Frank Padilla, Chief, Housing and Community Development Branch, Office of Indian Programs, 1405 Curtis Street, Denver, Colorado 80202–2349, Telephone (303) 844–6481.

Region IX		
Hualapai, PO Box 179, Peach Springs, AZ 86434	B–91–SR–04–0819	393,847.00
Kaibab-Paiute, H.C. 65 Box 2, Fredonia, AZ 86022	B–91–SR–04–0841	215,362.00
Navajo Nation, PO Box 308, Window Rock, AZ 86515	B–91–SR–04–0877	413,000.00
	B–92–SR–04–0877	1,740,000.00
Total grant	.....	2,153,000.00
Tohono O'Odham, PO Box 837, Sells, AZ 85634	B–91–SR–04–0931	1,672,113.00
	B–92–SR–04–0931	967,987.00
Total grant	.....	2,640,100.00
White Mountain, PO Box 700, Whiteriver, AZ 85941	B–91–SR–04–0817	631,250.00
Yavapai Prescott, 530 E. Merritt, Prescott, AZ 86301	B–91–SR–04–0871	520,500.00
Gila River, PO Box 97, Sacaton, AZ 85247	B–92–SR–04–0849	962,275.00
Salt River, Route 1 Box 216, Scottsdale, AZ 85256	B–92–SR–04–0872	357,491.00
Imminent Threat Grantees—Arizona		
Havasupai, PO Box 10, Supai, AZ 86435	B–92–SR–04–2504	42,725.00
San Carlos, PO Box O, San Carlos, AZ 85550	B–92–SR–04–2503	22,815.00
California:		
Manzanita, PO Box 1302, Boulevard, CA 91905	B–91–SR–06–0851	257,594.00
Santa Ynez, PO Box 517, Santa Ynez, CA 93460	B–91–SR–06–0808	720,500.00
Jamul, PO Box 612, Jamul, CA 91935	B–92–SR–06–0911	600,853.00
Rincon, PO Box 68, Valley Center, CA 92082	B–92–SR–06–0867	211,600.00
New Mexico:		
San Juan Pueblo, PO Box 1099, San Juan Pueblo, NM 87566	B–91–SR–35–0809	285,840.00
Sandia Pueblo, PO Box 6008, Bernalillo, NM 87044	B–91–SR–35–0906	810,000.00
Zuni Pueblo, PO Box 339, Zuni, NM 87327	B–91–SR–35–0896	710,879.00
Laguna Pueblo, PO Box 194, Laguna, NM 87026	B–92–SR–35–0868	1,082,677.00
Zia Pueblo, General Delivery, San Ysidro, NM 87327	B–92–SR–35–0845	786,600.00
Imminent Threat Grantees—New Mexico		
Tesuque Pueblo, Route 11 Box 1, Santa Fe, NM 87501	B–92–SR–35–2502	62,924.00

The location of grant files and contact person for any information regarding the grants listed above is: Gerald C. Hammon, Indian Programs Office, Two Arizona Center, 400 North 5th Street, Phoenix, AZ 85004–2361, Telephone (602) 379–4197.

Nevada:		
Battle Mountain, PO Box 138–13, Battle Mountain, NV 89820	B–91–SR–32–0807	803,348.00
Duckwater Indian, PO Box 68, Duckwater, NV 89314	B–92–SR–32–0815	443,800.00
Pyramid Lake Paiute, PO Box 256, Nixon, NV 89424	B–92–SR–32–0864	784,500.00
Reno-Sparks, 98 Colony Rd, Reno, NV 89502	B–91–SR–32–0878	719,452.00
Washoe-Dressle, 919 HWY 395 South, Cardnerville, NV 89410	B–92–SR–32–0889	704,666.00
Yerington Paiute, 171 Campbell Lane, Yerington, NV 89447	B–92–SR–32–0869	662,230.00

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM—Continued

Grantee	Grant No.	Amount
Imminent Threat Grantees—Nevada		
Duck Valley In., PO Box 219, Owyhee, NV 89832	B–91–SR–32–2006	16,050.00
California:		
Berry Creek Rancheria, 1779 Mitchell Avenue, Oroville, CA 95965	B–92–SR–06–0927	591,602.00
Big Pine Indian, Box 700, Big Pine, CA 93513	B–91–SR–06–0831	653,000.00
Big Sandy Rancheria, PO Box 337, Auberry, CA 93602	B–92–SR–06–0882	399,546.00
Blue Lake Rancheria, PO Box 428, Blue Lake, CA 95525	B–92–SR–06–0892	329,144.00
Cedarville Rancheria, PO Box 126, Cedarville, CA 96013	B–92–SR–06–0903	414,216.00
Chico Rancheria, 3006 Esplanade, Suite G, Chico, CA 95922	B–91–SR–06–0918	676,793.00
Colusa Rancheria, PO Box 8, Colusa, CA 95932	B–91–SR–06–0813	602,323.00
Coyote Valley, PO Box 39, Redwood Valley, CA 95470	B–92–SR–06–0824	810,000.00
Hoopa Valley, PO Box 1348, Hoopa, CA 95546	B–91–SR–06–0884	896,540.00
Karok Tribe, PO Box 1016, Happy Camp, CA 96039	B–92–SR–06–0917	730,000.00
Pit River, PO Box Drawer 1570, Burney, CA 96013	B–92–SR–06–0904	295,789.00
Robinson Rancheria, PO Box 1119, Nice, CA 95464	B–91–SR–06–0891	332,077.00
Rohnerville Rancheria, PO Box 108, Eureka, CA 95502	B–92–SR–06–0823	116,750.00
Smith River Rancheria, PO Box 239, Smith River, CA 95567	B–91–SR–06–0887	797,845.00
Smith River Rancheria, PO Box 239, Smith River, CA 95567	B–92–SR–06–2005	15,000.00
Susanville Rancheria, Drawer U, Susanville, CA 96130	B–91–SR–06–0861	705,761.00
Table Bluff Rancheria, PO Box 519, Loleta, CA 95551	B–92–SR–06–0916	478,625.00
Trinidad Rancheria, PO Box 630, Trinidad, CA 95570	B–91–SR–06–0890	513,926.00
Tule River, PO Box 589, Porterville, CA 93258	B–92–SR–06–0914	796,702.00
Grindstone Rancheria, PO Box 63, Elk Creek, CA 95939	B–91–SR–06–0805	200,000.00
Yurok Indian, 517 Third St., Suite 21, Eureka, CA 95501	B–91–SR–06–2004	35,000.00
The location of grant files and contact person for any information regarding the grants listed above is: Bob Barth, Program Manager, Outstationed HUD OIP Office, 450 Golden Gate Avenue, P. O. Box 36003, San Francisco, CA 94102–3448.		
Region X		
Jamestown S'Klallam Tribe, 305 Old Blyn Highway, Sequim, WA 98382	B–91–SR–53–0019	325,000.00
Muckleshoot Tribe, 39015–172nd SE, Auburn, WA 98002	B–92–SR–53–0001	235,000.00
Nisqually Tribe, 4820 She-Nah-Num Dr. SE, Olympia, WA 98503	B–92–SR–53–0006	110,200.00
Puyallup Tribe, 2002 E. 28th St., Tacoma, WA 98404	B–92–SR–53–0003	324,815.00
Shoalwater Bay Tribe, PO Box 130, Tokeland, WA 98590	B–91–SR–53–0016	325,000.00
Skokomish Tribe, N 80 Tribal Center Rd., Shelton, WA 98584	B–91–SR–53–0018	325,000.00
Squaxin Island Tribe, W 81, Highway 108, Shelton, WA 98584	B–92–SR–53–0005	325,000.00
Tulalip Tribes, 6700 Totem Beach Rd., Marysville, WA 98404	B–92–SR–53–0012	325,000.00
Upper Skagit Tribe, 2284 Community Plaza, Sedro Woolley, WA 98284	B–91–SR–53–0014	270,974.00
	B–91–SR–53–0014	54,026.00
Total grant	.....	325,000.00
Imminent Threat Grantees—Washington		
Lummi Tribe, 2616 Kwina Rd., Bellingham, WA 98226	B–91–SR–53–0001	130,026.00
Oregon:		
Conf. Tribes of Siletz Reservation, PO Box 429, Siletz, OR 97380	B–91–SR–41–0004	325,000.00
Coquille Tribe, PO Box 1435, Coos Bay, OR 97420	B–92–SR–41–0005	325,000.00
The location of grant files and contact person for any information regarding the grants listed above is: Jeanne McArthur, U.S. Dept. of Housing and Urban Development, Office of Indian Programs, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, Telephone (206) 220–5271.		
Alaska:		
Akiachak IRA Council, PO Box 70, Akiachak, AK 99551	B–92–SR–02–0030	280,747.00
Aleut Community of St. Paul Island, St. Paul Island, AK 99660	B–92–SR–02–0019	500,000.00
Angoon Community Association, PO Box 138, Angoon, AK 99820	B–91–SR–02–0001	110,000.00
Birch Creek Village Council, General Delivery, Birch Creek, AK 99740	B–91–SR–02–0064	354,551.00
Chenega Bay IRA Council, PO Box 8079, Chenega Bay, AK 99574	B–92–SR–02–0020	400,275.00
Chignik Lagoon, Village Council, PO Box 57, Chignik, AK 99565	B–92–SR–02–0033	84,522.00
Chitina Village Council, PO Box 31, Chitina, AK 99566	B–92–SR–02–0072	395,538.00
Dot Lake, Traditional Council, PO Box 2272, Dot Lake, AK	B–91–SR–02–0035	102,088.00
	B–92–SR–02–0035	194,577.00
Total Grant	.....	296,665.00
Emmonak Tribal Council, PO Box 126, Emmonak, AK 99581	B–91–SR–02–0061	500,000.00
Gambell IRA Council, PO Box 99, Gambell, AK 99742	B–92–SR–02–0034	500,000.00
Kake IRA Council, P.O. Box 316, Kake, AK 99830	B–92–SR–02–0049	281,312.00
Mentasta Village Council, P.O. Box 6019, Mentasta, AK 99780	B–92–SR–02–0070	392,538.00
Nililchik Traditional Council, P.O. Box 39070, Nililchik, AK 99639	B–91–SR–02–0058	170,630.00
Nondalton Tribal Council, General Delivery, Nondalton, AK 99640	B–92–SR–02–0062	258,098.00
Ruby Native Council, P.O. Box 90, Ruby, AK 99768	B–91–SR–02–0027	36,009.00
Sitka Tribe of Alaska, 456 Katlian Street, Sitka, AK 99835	B–91–SR–02–0051	270,230.00
Tanana Chiefs Conference, Inc., 122 First Avenue, Fairbanks, AK 99701	B–92–SR–02–0046	500,000.00

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM—Continued

Grantee	Grant No.	Amount
Toksook Bay, Traditional Council, Nelson Island, Toksook Bay, AK 99637	B–91–SR–02–0018	111,217.00
	B–92–SR–02–0018	333,653.00
Total grant		444,870.00
Yak Tat Kwaan, Inc., P.O. Box 416, Yakutat, AK 99689	B–91–SR–02–0007	120,000.00

The location of grant files and contact person for any information regarding the grants listed above is: Colleen Craig, Community Development Division, 222 W. 8th Avenue, #64, Anchorage, AK 99513–7537, Telephone (907) 271–3669.

All grants were made under the authority of 24 CFR

[FR Doc. 93–22751 Filed 9–16–93; 8:45 am]
BILLING CODE 4210–33–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–49]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Air Force:* John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 696–5569; *GSA:* Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 208–0619; *Dept. of Agriculture:* Marsha Pruitt, Realty Officer, USDA, South Bldg. Rm 1566, 14th and Independence Ave. SW, Washington, DC 20250; (202) 447–3338; (These are not toll-free numbers).

Dated: September 10, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program
Federal Register Report for 9/17/93

Suitable/Available Properties

Buildings (by State)

California

30 Dormitories
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320048
Status: Excess
Base closure Number of Units: 30

Comment: ranging in size from 4330 sq. ft. to 25,723 sq. ft., 1-story concrete block, scheduled to be vacated 9/94

35 Administrative Bldgs.
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320049
Status: Excess
Base closure Number of Units: 35
Comment: ranging in size from 1750 sq. ft. to 261,700 sq. ft., 1-story concrete block including offices, admin. and hq. maint. facilities, scheduled to be vacated 9/94

4 Training Facilities
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320050
Status: Excess
Base closure Number of Units: 4
Comment: ranging in size from 4600 to 29380 sq. ft., 1-story concrete block classrooms, scheduled to be vacated 9/94.

53 Warehouses
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320051
Status: Excess
Base closure Number of Units: 53
Comment: ranging in size from 9000 sq. ft. to 293,574 sq. ft., 1-story concrete block warehouses, scheduled to be vacated 9/94

28 Commercial Bldgs.
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320052
Status: Excess
Base closure Number of Units: 28
Comment: ranging in size from 400 sq. ft. to 129000 sq. ft., 1-story concrete block including stores, child care centers, clinics, dining facilities, scheduled to be vacated 9/94.

21 Maintenance Facilities
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320053
Status: Excess
Base closure Number of Units: 21
Comment: ranging in size from 2942 sq. ft. to 625,145 sq. ft., 1-story concrete block including maintenance, storage, and headquarters facilities, scheduled to be vacated 9/94

8 Recreation Bldgs.
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199320054
Status: Excess
Base closure Number of Units: 8
Comment: ranging in size from 3000 sq. ft. to 25,358 sq. ft., 1-story concrete block including library, golf bldgs., gym, recreation/bowling/youth centers, sched. to be vacated 9/94

Colorado

3 Bldgs.
Former U.S. Forest Service Admin. Site
Fox Lane
Beaulah Co: Pueblo CO 81023-
Landholding Agency: GSA
Property Number: 549330002
Status: Excess
Comment: 1100 sq. ft. 2-story house, 600 sq. ft. 1-story house and 1800 sq. ft. garage, most recent use—classroom, storage, residence
GSA Number: 7–GR–CO–525

Minnesota

Eric & Laura Brittain—Cabin
Section 18 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320004
Status: Unutilized
Comment: 708 sq. ft., 2-story, needs repair, most recent use—recreation cabin, endangered species habitat, off-site use only

Kenneth Krienke—House
Govt Lots 7, 8, 9 & 10 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320005
Status: Unutilized
Comment: 2288 sq. ft., 2-story, most recent use—residence, endangered species habitat, off-site use only

Kenneth Krienke—Garage/Shed
Govt Lots 7, 8, 9, & 10 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320006
Status: Unutilized
Comment: 3840 sq. ft., 1-story pole bldg., earth flooring, endangered species habitat, off-site use only

Kenneth Krienke—Shed
Govt Lots 7, 8, 9, & 10 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320007
Status: Unutilized
Comment: 126 sq. ft., 1-story, needs repair, most recent use—fish cleaning shed, endangered species habitat, off-site use only

Lundeen—House
Govt Lot 14 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320008
Status: Unutilized
Comment: 1440 sq. ft., 2-story, wood frame, needs roof replaced, eagle habitat, most recent use—summer residence, off-site use only

Lundeen—Shed
Govt Lot 14 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320009
Status: Unutilized
Comment: 64 sq. ft., 1-story, eagle habitat, most recent use—fish cleaning shed, off-site use only

Lundeen—Garage
Govt Lot 14 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320010
Status: Unutilized
Comment: 192 sq. ft., 1-story, needs repair, eagle habitat, most recent use—garage, off-site use only

Lundeen—Cabin (North)
Govt Lot 14 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320011
Status: Unutilized
Comment: 960 sq. ft., 2-story, eagle habitat, most recent use—summer residence, off-site use only

Lundeen—Cabin (South)
Govt Lot 14 Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320012
Status: Unutilized
Comment: 960 sq. ft., 2-story, eagle habitat, most recent use—summer residence, off-site use only

Army Reserve Center
301 Lexington Ave. South
New Prague Co: LeSueur MN 56071-
Landholding Agency: GSA
Property Number: 549330003
Status: Excess
Comment: 4316 sq. ft. brick veneer and concrete block office and training bldg. and a 1170 sq. ft. maintenance shop on 3.82 acres of land leased by the City
GSA Number: 2–D–MN–558

Pennsylvania

Storage & Maint. Facility
1200 Airport Road
Hopewell Co: Beaver PA 15001-
Landholding Agency: GSA
Property Number: 549330004
Status: Excess
Comment: 44157 sq. ft., 1-story concrete block bldg. (inadequate heating) and 19 acres of land, easements for pipelines and public utilities
GSA Number: 4–L–PA–766

Land (by State)

Minnesota

Bike Trail
Minneapolis Co: Hennepin MN 55417-
Location: Located along the Bureau of Mines eastern boundary
Landholding Agency: GSA
Property Number: 549330005
Status: Excess
Comment: long strip of land consisting of approximately 2 acres, property is not accessible by motor vehicle
GSA Number: 2–I–MN–544–A

Unsuitable Properties

Buildings (by State)

Arkansas

Bldg. 12, Cass Job Corps Cntr
Hwy 23
Ozark Co: Franklin AR 72949-
Landholding Agency: Agriculture
Property Number: 159320013
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Minnesota

Daryll Schwieger—Cabin Co: Itasca MN
Landholding Agency: Agriculture
Property Number: 159320002
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Kenneth Krienke—Cabin Co: Itasca MN
Landholding Agency: Agriculture

Property Number: 159320003
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

[FR Doc. 93–22673 Filed 9–16–93; 8:45 a.m.]
Billing Code 4210–29–F

Office of the Assistant Secretary for Administration

[Docket No. D–93–984; FR–3546–D–02]

Amendment of Redelegation of Procurement Authority

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of amendment of redelegation of procurement authority.

SUMMARY: The redelegation of procurement authority published in the **Federal Register** on December 7, 1992 at 57 FR 57841 (Docket No. D–92–984; FR–3341–D–01) is amended to allow for the redelegation of small purchase authority to Regional employees for the specific use of the Governmentwide Commercial Credit Card System.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, room 5262, 451 Seventh Street, SW., Washington, DC 21410, (202) 708–0294. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD's redelegation of procurement authority is being amended to decentralize the granting of credit card purchasing authority from Headquarters to each Region.

Accordingly, the redelegation of authority published in the **Federal Register** on December 7, 1992 at 57 FR 57841 (Docket No. D–92–984; FR–3341–D–01) is amended to add a new subparagraph (b)(5) to section A, Amendment of Redelegation of Authority, Paragraph 3 (Paragraph 2 was renumbered as Paragraph 3 in the Amendment of Redelegation of Procurement Authority published on March 11, 1993 at 58 FR 13496 (Docket No. D–93–1020; FR–3439–D–01), as follows:

(5) Regional employees for small purchases (FAR Subpart 13.5) using the Governmentwide Commercial Credit Card system, in accordance with the Department's directives governing credit card purchasing.

Authority: 41 U.S.C. 414(2); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 26, 1993.

Herbert G. Persil,

Acting Assistant Secretary for Administration.

[FR Doc. 93–22750 Filed 9–16–93; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–068–02–4930–10–4503]

Emergency Closure of Public Lands; California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Emergency closure of certain public lands to motorized vehicle use in the Juniper Flats Area of San Bernardino County, California for a period of two years.

SUMMARY: In accordance with title 43, Code of Federal Regulations, §§ 8364.1 and 8341.2, notice is hereby given that all the below listed lands and roads located therein administered by the Bureau of Land Management (BLM) have been closed to all motorized vehicle use; except for BLM operation and maintenance vehicles, law enforcement vehicles and other vehicles specifically authorized by an authorized officer of the Bureau of Land Management; and except for the list of routes administered by the BLM which are identified below, which will be signed as "open".

This closure affects ALL of the public lands and roads located within the following lands of the Juniper Flats/Cottonwood Creek area of San Bernardino County, located to the north of the San Bernardino National Forest, to the east of Deep Creek Road, to the west of Grapevine Canyon Road and to the south of Tussing Ranch Road:

San Bernardino Meridian

T. 3 N., R. 2 W.
Secs. 2, 3, 4, 5, 6, 7, and 8.
T. 3 N., R. 3 W.
Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.
T. 4 N., R. 2 W.
Secs. 26, 27, 28, 29, 31, 32, 33, 34, and 35.
T. 4 N., R. 3 W.
Secs. 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, and 35.
A total of approximately 17,000 acres.

This closure affects only public lands. County roads and segments of closed roads through private lands are unaffected. The designated open public lands routes to street-legal and non street-legal motorized use (including "greensticker" vehicles) are:

(1) The access road to the San Bernardino National Forest that runs south and east from the private lands of Bowen Ranch and back and forth on Forest Service lands (3N59A), on approximately 1.7 miles of public land roads in Sections 11 and 12 of T. 3 N., R. 3 W and Sections 7 and 8 of T. 3 N., R. 2 W.

(2) The access road that runs southwesterly off of 3N59A towards the Hot Springs along Deep Creek in the San Bernardino National Forest, on approximately .2 miles of public land roads in the SE quarter of the SW quarter and the SW quarter of the SE quarter in Section 11 of T. 3 N., R. 3 W.

(3) The access road that runs generally easterly off of Deep Creek Road to Japatul/Juniper Flats Road, on approximately 5 miles of public land roads in Sections 7, 8, 9, 10, and 11 of T. 3 N., R. 3 W.

In addition, the following routes are designated open on public lands to street-legal motorized use only:

(4) Japatul/Juniper Flats Road (SV104), on public lands in Sections 25, 26 and 35 of T. 4 N., R. 3 W. and Sections 2, 3, and 11 in T. 3 N., R. 2 W.

(5) The access road to the hanggliding area that runs west off of Japatul Road, on approximately 2 miles of public land roads in Sections 26 and 27 of T. 4 N., R. 3 W.

(6) The access road to the camping area that runs west off of Japatul Road, on approximately 1.5 miles of public land roads in Sections 34 and 35 of T. 4 N., R. 3 W.

(7) Grapevine Canyon Road (4N16), through public lands in Sections 26 and 35 of T. 4 N., R. 2 W. and Section 2 of T. 3 N., R. 2 W.

(8) "Coxey" Truck Road east of Arrastre Canyon, southeast off of Bowen Ranch Road, through public lands in Section 31 of T. 4 N., R. 2 W. and Section 5 of T. 3 N., R. 2 W.

(9) Oak Springs Road, southeast off of Bowen Ranch Road to Oak Springs, through public lands in Section 1 of T. 4 N., R. 3 W. and Sections 6, 7, and 8 of T. 4 N., R. 2 W.

San Bernardino County maintained roads in the area are open to street-legal motorized use only, and are not affected by this closure. This includes:

(1) Bowen Ranch Road, through public lands in Section 31 of T. 4 N., R. 2 W. and Sections 1, 11, and 12 of T. 3 N., R. 3 W.

DATES: The emergency closure action goes into effect September 17, 1993 and will remain in effect for 2 years or until formal motor vehicle route planning and designation has been completed for this area in accordance with title 43, Code of

Federal Regulations 8342.2, whichever comes first; or until the Authorized Officer determines it is no longer needed. This closure may be extended at the authorizing officer's discretion if formal route designation has not yet occurred.

SUPPLEMENTARY INFORMATION: This emergency closure is required to mitigate the impacts of unregulated street-legal and non street-legal motorized vehicle use in a Class "L" limited use area as designated in the California Desert Conservation Area Plan (1980), as amended. This area includes resources of high cultural sensitivity, important populations of wildlife including upland game birds, generally shallow, fragile soils, and a unique transmountain vegetative regime comprised of several ecotones that represent a complex transitional area between desert and mountain types. Part of the area was designated an ACEC (Area of Critical Environmental Concern) to protect these resources. Historic recreation use has caused considerable adverse impacts to these sensitive resources, including: excessive soil erosion and loss, vegetative damage, riparian area degradation, destruction of range management fences, and water quality impacts, especially at the springs in the area. Increasing recreation use has occurred over the last three years in the area, causing additional concern. This closure will also facilitate management of permitted uses, including recreation uses, and allow motorized access to the Forest Service OHV trail network while protecting surrounding resources.

PENALTIES: Failure to comply with this closure is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Tim Read of the Barstow Resource Area (619–256–3591). Maps of the closure area and affected roads will be posted at the closest Hesperia, Lucerne Valley, and Apple Valley Post Offices to the area, and may also be obtained from the Barstow Resource Area, 150 Coolwater Lane, Barstow, CA 92311.

Dated: September 10, 1993.

Karla K.H. Swanson,

Area Manager.

[FR Doc. 93–22692 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–40–M

[ID–050–4333–02]

Emergency Closure of Public Land (Western Portion of the Shoshone BLM District)

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Closure of public land to off-road motorized travel.

SUMMARY: Notice is hereby given that effective immediately certain public land located in the western portion of the Shoshone BLM District is closed to off-road motorized travel. The closed area is bounded and generally described as follows:

That portion of Idaho Department of Fish and Game Unit 45, west of the Bliss-Hill City road, north of the old King Hill Highway, south of the Idaho Power double pole power line, and east of King Hill Creek.

All public land administered by the Bureau of Land Management within the above described area is closed to off-road motorized vehicle use from the date of the notice until May 1, 1994.

Exemptions from this closure may be approved by the Authorized Officer. Exemptions may be approved for federal, state, and local government personnel on official duty, emergency service personnel including medical, search and rescue, utility services, and other licensed or permitted individuals.

The described area is experiencing high concentrations of mule deer hunters. Past hunting activity has resulted in off-road motorized vehicle use which has opened tracks and caused excessive soil erosion during snowmelt or seasonal rains. The purpose of the closure is to protect natural resources from excessive soil erosion caused by disturbances from off-road vehicle use.

The authority for this closure is 43 CFR 8364.1. The closure will remain in effect until May 1, 1994.

FOR FURTHER INFORMATION CONTACT: Robert D. Cordell, Bennett Hills Resource Area Manager, P.O. Box 2–B, Shoshone Idaho 83352, telephone (208) 886–7251.

Dated: September 10, 1993.

Mary C. Gaylord,

District Manager.

[FR Doc. 93–22712 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–GG–M

[NM–060–4340–02]

Closure and Restriction Order: Roswell Resource Area Bat Hibernacula

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bat Hibernacula Seasonal Closure.

SUMMARY: Pursuant to 43 CFR 8364.1, all Bureau of Land Management (BLM) caves in the Roswell Resource Area identified as bat hibernation sites (hibernacula) are seasonally closed to entry. With the exception of essential search and rescue, or other emergency or administrative operations for cave resources protection and administration, 10 caves containing hibernation sites, and other caves that may be identified in the future as hibernacula, are closed seasonally during the hibernation season, to all visitation, from November 1 to April 15.

Known affected caves are listed below:

Big-Eared Cave
Crockett's Cave
Feather Cave
Malpais Madness Cave
Torgac (Torgoc/Pillar) Caves
Corn Sinkhole Cave
Crystal Caverns
Fort Stanton Cave
Martin-Antelope Gyp Cave Complex
Tres Ninos Cave

The purpose of the closure is to protect bat species and their habitat during the critical hibernation period. Any person who fails to comply with this closure and restriction order, under 43 CFR 8364.1, may be subject to the penalties provided in regulations at 43 CFR 8360.0–7: a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

DATES: This action is effective October 1, 1993.

ADDRESSES: The Federal Cave Resources Protection Act of 1988 prohibits disclosure of cave locations. Information pertaining to the above closure and restriction will be available at the BLM Roswell Resource Area and Roswell District offices in Roswell, New Mexico.

FOR FURTHER INFORMATION CONTACT: Saundra L. Allen, Area Manager, BLM Roswell Resource Area, P.O. Drawer 1857, Roswell, New Mexico 88202–1857, (505) 624–1790.

SUPPLEMENTARY INFORMATION: Caves in the Roswell Resource Area are particularly attractive to bats for hibernation because they offer an optimum yet narrow range of temperature and other microclimatical variables required for successful hibernation. Research has indicated that all bat species are extremely susceptible and sensitive to human disturbance during hibernation, and that the continuance of recreational trips during the hibernation season is detrimental to the survival of bat species.

Known species that use the above caves for hibernation are:

Plecotus townsendii (Western Big-Eared Bat)
Myotis ciliolabrum (Small-Footed Myotis)
Myotis lucifugus (Little Brown Bat)
Myotis velifer ssp. (Cave Bat)
Eptesicus fuscus (Big Brown Bat)
Pipestrellus hesperus (Western Pipestrelle)
Pipistrellus subflavus (Eastern Pipestrelle)

A permanent seasonal closure policy, from November 1 to April 15, pertaining to all Roswell Resource Area winter bat hibernacula, both currently known and future discoveries, will be written. Existing cave management plans will be amended to reflect this policy. This policy will be addressed in the Roswell Resource Area Resource Management Plan.

Dated: September 10, 1993.

John H. Whiting,

Acting District Manager.

[FR Doc. 93–22713 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–FB–M

[CA–920–4110–02; CACA 3049]

Notice of Revocation of the Bodie Known Geothermal Resource Area; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of revocation.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 235 Departmental Manual 1.1 L, and Secretarial Orders 3071 and 3087, the following described lands in the Bodie Known Geothermal Resource Area are revoked in their entirety.

EFFECTIVE DATE: October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Sean E. Hagerty, Bureau of Land Management, California State Office, Division of Mineral Resources, 2800 Cottage Way, Sacramento, California 95825, (916) 978–4735.

Bodie Known Geothermal Resource Area

Mt. Diablo Meridian

T. 4 N., R. 26 E.,
Sec. 33, all.

The area described contains 640 acres more or less.

The subject lands will be made available to the first qualified applicant under the regulation appearing in 43 CFR part 3210 beginning with the first calendar month following the date of this notice.

Dated: September 10, 1993.

Robert M. Anderson,

Deputy State Director, Mineral Resources.

[FR Doc. 93–22710 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–40–M

[CA–066–03–4333–02]

Notice of Closure and Restrictions on Public Land in Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public vehicle entry on Public Lands.

SUMMARY: Notice is hereby given for the purpose of closure to vehicle entry to minimize environmental impacts resulting from vehicle usage on the public lands identified in the notice. This closure will include all lands within T5S, R4W, sec. 26, SBBM. An exception to this closure is the use of motor vehicles on the four routes of travel in this section of public land as identified in the November 1992, South Coast Resource Management Plan. This closure will not apply to emergency response agencies conducting official business or to land or resource management agencies conducting studies under permit from the Bureau of Land Management, U.S. Fish and Wildlife Service, California Department of Fish and Game, City of Canyon Lake, Riverside County and any local agency charged with the management of the water in Canyon Lake.

ORDER: Effective on July 1, 1993 and will remain in effect until rescinded or modified by the authorized officer. 1. All lands within T5S, R4W, sec. 26, SBBM shall be closed to all vehicle entry except as indicated in summary, and shall remain closed until thirty (30) days after the record of decision of the South Coast Resource Management Plan has been signed. Establishing the four (4) routes of travel in the section of public land as identified in the November, 1992, South Coast Resource Management Plan as the only designated route of travel in this section or until rescinded or modified by the authorized officer. Authority for this use restriction may be found in 43 CFR 8341.2. Violations of this closure are punishable by a fine not to exceed $10,000 and/or 12 months imprisonment.

SUPPLEMENTARY SUMMARY: The purpose of this order is to prohibit all unauthorized vehicle use within T5S, R4W, sec. 26, SBBM. Vehicle use in this area poses a significant threat to wildlife habitat (including the endangered species Stephen's Kangaroo Rat). Soil and vegetative resources. In addition the indiscriminate use of vehicles is causing a proliferation of vehicle routes in the area.

EFFECTIVE DATE: This closure is effective on July 1, and expires upon notification of the authorized officer.

FOR FURTHER INFORMATION CONTACT: Joan Oxendine, Chief of Resources, Palm Springs-South Coast Resource Area, P.O. Box 2000, North Palm Springs, CA 92258–2000. (619) 251–0812.

Dated: September 9, 1993.

Julia Dougan,

Area Manager.

[FR Doc. 93–22714 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–4210–06; CACA 28855]

Opening of Land in a Proposed Withdrawal; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The temporary 2-year segregation of a proposed withdrawal of 4,766.53 acres of public lands, 1,361.04 acres of public domain reserved minerals, and 396.60 acres of National Forest System lands for protection of the lands for the proposed Auburn Dam and Reservoir and its facilities expires on October 17, 1993, by operation of law. The public lands will be open to surface entry and mining, and the public domain reserved minerals and the National Forest System lands will be open to mining. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, room E–2845, Sacramento, California 95825, 916–978–4820.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register**, 56 FR 52052, October 17, 1991, as corrected by 56 FR 58122, November 15, 1991, and 56 FR 61046, November 29, 1991, which (1) segregated the public land described therein for up to 2 years from settlement, sale, location, or entry under the general land laws, including the mining laws, (2) segregated the public domain reserved minerals from location and entry under the mining laws, and (3) segregated the National Forest System lands from location and entry under the United States mining laws.

The 2-year segregation expires October 17, 1993. The withdrawal application will continue to be processed unless it is canceled or denied.

At 10 a.m. on October 18, 1993, the public lands described in the aforementioned Federal Register notices will return to being open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 18, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on October 18, 1993, the public lands, the public domain reserved minerals, and the National Forest System lands described in the aforementioned Federal Register notices will return to being open to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriations of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Since the lands covered under this proposed withdrawal are still being considered for withdrawal by the applying agency, new withdrawal applications and further segregation may encumber these lands prior to the effective date of this notice. Therefore, all locators are responsible for enduring that the lands opened under this notice are free of other withdrawal applications and that the requirements of applicable law are met.

Dated: September 8, 1993.

Nancy J. Alex,

Chief Lands Section.

[FR Doc. 93–22365 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–40–M

[UT–040–03–4212–14, UTU–63375]

Utah; Notice of Realty Action

SUMMARY: The following described public land in Kane County, Utah has been examined and identified as suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750; 43 U.S.C. 1713) at not less than fair market value. The following parcels of land will be sold to Kanab City using non-competitive (direct) sale procedures (43 CFR 2711.3–3): Salt Lake Meridian, Utah T. 43 S., R. 6 W., sec. 23, S½SE¼SE¼, sec. 26, lots 7, 8, S½SE¼NE¼, NE¼SW¼, E½SE¼, encompassing 240.37 acres. The lands will not be offered for at least sixty (60) days after the publication of this notice. Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent, or two hundred seventy (270) days from the date of the publication, whichever occurs first.

THE TERMS AND CONDITIONS APPLICABLE TO THE SALE ARE: 1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

2. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

3. The patent would be subject to a 10 foot wide water pipeline right-of-way, UTU–51384.

DATES/ADDRESSES: For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Cedar City District Manager, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, Utah 84720. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Concerning the lands and the terms and conditions of the sale, **CONTACT** Michael Noel, Environmental Specialist, Kanab Resource Area, 318 North 100 East, Kanab, Utah 84741, (801) 644–2672.

Dated: September 10, 1993.

Gordon R. Staker,

District Manager.

[FR Doc. 93–22711 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–DQ–M

[MT–060–03–4410–02]

West HiLine Resource Management Plan Amendment; Liberty and Toole Counties, Montana; Supplement to the Notice of Intent

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Supplement to the notice that the West HiLine Resource Management Plan will be amended by the Great Falls Resource Area, Great Falls, Montana.

SUMMARY: This notice supplements the "Notice that the West HiLine Resource Management Plan will be Amended" that the Bureau of Land Management published in the **Federal Register**, Volume 58, No. 164, page 45117, August 26, 1993.

This supplement notes that the public scoping meetings for the amendment, identified in the August 26, 1993 notice, will not fulfill the public meeting requirements for withdrawal proposals under 43 CFR part 2310.3–1. The BLM will hold public meetings on the draft amendment and environmental impact statement in the summer of 1994 which will also fulfill the public meeting requirements for withdrawal proposals under 43 CFR 2310.3–1.

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: September 8, 1993.

David L. Mari,

District Manager.

[FR Doc. 93–22739 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–DN–M

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for Solidago houghtonii (Houghton's goldenrod) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the threatened *Solidago houghtonii* (Houghton's goldenrod). This plant species occurs on Federal, state, municipal, and private lands in nine Michigan counties on or near Lakes Huron and Michigan and at one site in Genessee County, New York. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before

October 18, 1993 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111; telephone 612–725–3276. Written comments and materials regarding the plan should be addressed to Zella E. Ellshoff, Regional Botanist, at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Zella E. Ellshoff at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring a endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service's) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Solidago houghtonii is found in the United States in eight Michigan counties on the shores of Lakes Huron and Michigan, one Michigan county slightly inland, and one New York county. The principal causes for decline of this species are development of the species' limited lakeshore habitat and the overuse of these areas for recreational activities, particularly off-road vehicles. Recovery efforts will focus on actions necessary to conserve known occurrences, maintain ecosystem processes, and enable each occurrence to be naturally self-sustaining. These actions include, but are not limited to, protecting sites, surveying habitat, monitoring occurrences, disseminating current information, and conducting biosystematic research.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan.

Authority

The authority of this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 10, 1993.

Marvin E. Moriarty,

Regional Director.

[FR Doc. 93–22735 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–55–M

Notice of Availability of a Draft Recovery Plan for Sedum Integrifolium ssp. Leedyi (Leedy's Roseroot) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the threatened *Sedum intergrifolium* ssp. *leedyi* (Leedy's roseroot). This plant is endemic to southeastern Minnesota and western New York and occurs in six known populations—two on state-owned property and four on privately-owned land. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before October 18, 1993 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056; telephone 612–725–3276. Written comments and materials regarding the plan should be addressed to Zella E. Ellshoff, Regional Botanist, at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Zella E. Ellshoff at the above address and phone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Sedum integrifolium ssp. *leedyi* is found only in two counties in Minnesota on cool, moderate cliffs and in two counties in New York on lakeside cliffs. This taxon is an isolated subspecies of a species with three other subspecies which occur in the western United States. The two disjunct areas of occurrence of *Sedum integrifolium* ssp. *leedyi* suggest the taxon is a relict of a formerly more widespread Pleistocene flora. Threats to the taxon include its disjunct occurrences, low numbers, off-site influences, and on-site disturbances. Recovery efforts will focus on actions necessary to conserve the three privately-owned Minnesota populations and a comparably sized and self-sustaining portion of the main New York population. These actions include, but are not limited to: Conducting research on biosystematics, ecology, habitat, and genetics; developing and

implementing a conservation easement program; establishing and maintaing a genetic bank; establishing funding for conservation actions; monitoring occurrences; providing public education; and surveying habitat.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 10, 1993.

Marvin E. Moriarty,

Regional Director.

[FR Doc. 93–22734 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

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 and related forms and explanatory material may be obtained by contacting the bureau's clearance officer at the phone number listed blow. Comments and suggestions on the requirement should be made within 30 days directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1028–0050), Washington DC 20503, telephone 202–395–7340.

Title: Map Requirements Survey
OMB Approval Number: 1028–0050
Abstract: OMB Circular A–16 mandates coordination of mapping and digital cartographic data activities financed in whole or in part by Federal funds, to reduce duplication of effort and facilitate effective coordination of mapping programs. The U.S. Geological Survey uses the collected information to determine priorities for effective production management.
Bureau Form Number: None
Frequency: Biennially
Description of Respondents: State and local governments
Estimated Completion Time: 37 hours
Annual Responses: 25
Annual Burden Hours: 925 hours
Bureau Clearance Officer: Geraldine A. Wilson, 703–648–7309

Dated: August 18, 1993.

Allen H. Watkins,

Chief, National Mapping Division.

[FR Doc. 93–22809 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Outer Continental Shelf (OCS) Advisory Board—Policy Committee; Notice and Agenda for Meeting

The Policy Committee of the OCS Advisory Board will meet Wednesday, October 20 and Thursday, October 21, 1993, at the Hyatt Regency Reston, Reston Town Center, 1800 Presidents Street, Reston, Virginia (703) 709–1234.

The agenda will cover the following principal subjects:

Wednesday, October 20:
- —Administration's Energy Outlook and Its Implications for the OCS for the Next 10 Years, Including the Domestic Energy Initiative
- —Congressional Committee Reorganization, Legislation, and Appropriations Update
- —Regional Directors Panel

Thursday, October 21:
- —OCS Legislative Subcommittee
- —MMS Selected Issue Update
- —OCS Policy Committee Sand and Gravel Report
- —Safety and Environmental Management Program for OCS Operations and Facilities
- —Operations Update: Ohmsett, Oil Pollution Act Implementation, In Situ Burn in Newfoundland
- —Committee Roundtable

The meeting is open to the public. Upon request, interested parties may make oral or written presentations to the Policy Committee. Such requests should be made no later than October 8, 1993, to the Office of OCS Advisory Board Support, Minerals Management Service, 381 Elden Street, MS–4110, Herndon, Virginia 22070, Attention: Terry Holman.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, call Terry Holman at (703) 787–1211.

Minutes of the Policy Committee meeting will be available for public inspection and copying at the Minerals Management Service in Herndon, Virginia. This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92–463, 5 U.S.C. appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: September 8, 1993.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 93–22741 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Hamilton Grange National Memorial, New York City, NY; Extension of Document Review Comment Period

In accordance with section 102(c) of the National Environmental Policy Act of 1969 and customary procedures, the National Park Service has placed on review the draft General Management Plan and draft Environmental Impact Statement for Hamilton Grange National Memorial in New York City, New York.

The document was initially made available on April 29, 1993, for a 60-day period of review and comment through June 30, 1993. By notice placed on June 2, 1993 the comment and review period was extended through August 13, 1993. This notice extends the comment period through October 14, 1993.

For a copy of the draft document, or further information contact Superintendent, Manhattan Sites, National Park Service, 26 Wall Street, New York, New York 10005.

Dated: September 10, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 93–22762 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Notice of Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation in Ash Grove Cement Company. Its address is 8900 Indian Creek Parkway, Suite 600, Overland Park, KS 66210. It is a Delaware corporation.

2. Wholly-owned subsidiaries which will participate in the operations are:

Ash Grove Materials Corp., a Delaware corporation
Precision Packaging Corp., Arkansas corporation
Materials Packaging Corp., a Tennessee corporation

B. 1. Parent corporation and address of principal office: Liebovich Bros., Inc., 2116 Preston Street, Rockford, IL 61102.

2. Wholly owned companies which will participate in the operations, and States of incorporation:

Corporation	State of incorporation
Liebovich Bros. National Sales Corp.	Illinois.
Liebovich Structural Fabricating Co.	Illinois.
Liebovich Steel & Aluminum Co.	Illinois.
Precision Grinding & Stress Relieving Co.	Illinois.
Liebovich Custom Fabricating Co.	Illinois.
Liebovich Scrap & Machinery Co..	Illinois.
Good Metals Inc.	Illinois.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 93–22758 Filed 9–16–93; 8:45 am]

BILLING CODE 7035–01–M

[No. 41086]

American Trucking Associations; Petition for Declaratory Order; Single State Insurance Registration

AGENCY: Interstate Commerce Commission.

ACTION: Institution of declaratory order proceeding.

SUMMARY: The Commission is instituting a proceeding under 5 U.S.C. 554(e) to determine whether certain State actions are inconsistent with the Commission's rules governing State registration of motor carriers. The Commission is acting in view of evidence suggesting that States may be in violation of 49 CFR 1023.2(a), 1023.4(c)(4), and 1023.4(g). This action is part of the Commission's continuing effort to clarify its regulations and facilitate smooth operation of the registration system. The Commission is providing interested persons an opportunity to participate in the proceeding and is inviting their comments.

DATES: Comments by interested persons are due October 4, 1993. The Commission does not intend to issue a service list. Replies will not be permitted.

ADDRESSES: The original and 10 copies of comments identified as such and referring to No. 41086 must be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610, or Kenneth Schwartz, (202) 927–5316. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In a decision served May 18, 1993, in Single State Insurance Registration, 9 I.C.C.2d 610 (1993), the Commission adopted regulations replacing the multi-State registration system, known as the "bingo card" program, with a simplified, base-State insurance registration system. The Commission acted in accordance with the mandate of section 4005 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, which substantially amended 49 U.S.C. 11506—Registration of Motor Carriers by a State. Under the new regulations, carriers must—

(1) File proof of insurance with a single participating registration State,

(2) Pay fees to that State to be allocated among all participating States in which the carrier operates, and

(3) Keep in each of their vehicles a copy of a receipt issued by their registration State.

As pertinent here, the statute and the Commission's regulations provide, in essence, that a State is eligible to participate as a registration State and to receive fee revenue under the program only if, as of January 1, 1991, it charged or collected a fee for a vehicle identification stamp or a number pursuant to the provisions of the previous registration system. See 49 U.S.C. 11506(c)(2)(D) and 49 CFR 1023.2(a). Also as pertinent here, the statute and the regulations provide, in essence, that the per vehicle fee each pertinent participating State charges must equal the fee, not to exceed $10, that such State collected or charged as of November 15, 1991. The statute and the regulations also indicate that the charging or collection of any fee not in accordance with the new fee system shall be deemed to be a burden on interstate commerce. See 49 U.S.C. 11506(c)(2)(B)(iv) and 11506(c)(2)(C), and 49 CFR 1023.4(c)(4) and 1023.4(g).

On August 27, 1993, the American Trucking Associations (ATA) filed a petition requesting the Commission to determine that certain State actions are inconsistent with the above-cited statutory and regulatory requirements. Specifically, ATA alleges, first, that Kentucky has commenced participating in the new registration program even though, in view of facts alleged and interpreted by ATA, Kentucky is not eligible to participate. ATA alleges, second, that Texas is ignoring the requirement that fees be frozen as of November 15, 1991, and is charging all carriers an across-the-board fee of $10. ATA points to the Commission's determination that States must continue to observe reciprocity agreements that had the effect of reducing carriers' fees. See Single State Insurance Registration, supra, 9 I.C.C.2d 617–619. As a third point, ATA contends that several participating States are attempting to raise fees beyond the levels that they charged based on reciprocity agreements under the previous registration system. Acknowledging that registration States may face difficulties in determining the actual fees carriers previously paid to other States, ATA recommends a Commission order requiring participating States to allow carriers to submit evidence as to the fees they paid to participating States in 1991.

ATA contends that the involved issues are purely legal, and it argues that the Commission thus may issue a decision without seeking public comment. It argues that thousands of carriers and truck drivers are in jeopardy of fines and penalties.

We agree with ATA that uncertainty and controversy exist. On the other hand, we believe that the Commission would benefit from comment from interested persons, including the States of Texas and Kentucky. Nevertheless, it is clear that expeditious resolution of the issues presented is in the best interest of all carriers, States, and other interested persons. Therefore, we will institute a declaratory order proceeding and provide interested persons an opportunity to participate. We will allow only 15 days from publication of this notice for interested persons to file comments, and we will not accept replies. We encourage persons that are in agreement with one another to submit joint filings. Also, we advise persons that they may adopt the submissions of others by reference without submitting duplicate pleadings.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A declaratory order proceeding is instituted to consider the issues raised in this proceeding.

2. Comments are due October 4, 1993.

Decided: September 9, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22814 Filed 9–16–93; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–290; Sub-No. 131X]

Norfolk and Western Railway Co.; Abandonment Exemption; Between Oak Hill and Lochgelly, WV

Norfolk and Western Railway Company (NW) has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon its 3.7-mile line of railroad between milepost WL–2.5 at Oak Hill and milepost WL–6.2 at Lochgelly, WV.[1]

NW 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) (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 October 17, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by September 27, 1993.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 7, 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: F. Blair Wimbush, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, 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 September 22, 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: September 10, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22759 Filed 9–16–93; 8:45 am]

BILLING CODE 7035–01–M

[1] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Commission at least 50 days before the abandonment or discontinuance is to be consummated. The applicant, in its verified notice, indicated a proposed consummation date of October 18, 1993. Because the verified notice was not filed until August 30, 1993, consummation should not have been proposed to take place prior to October 19, 1993. Applicant's representative has confirmed that the correct consummation date is on or after October 19, 1993.

[2] 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.

[3] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB–8; Sub-No. 27X]

The Denver and Rio Grande Western Railroad Co.; Abandonment Exemption; In El Paso County, CO

The Denver and Rio Grande Western Railroad Company (DRGW) has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon a 1.78-mile portion of its Manitou Branch rail line from milepost 75.26, at or near the Colorado Springs rail station, to milepost 77.04, at or near the end of the track, in El Paso County, CO.

DRGW 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 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 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 October 17, 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 1152.29 [3] must be filed by September 27, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 7, 1993, with: Office of the Secretary, Case

[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.

Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

DRGW 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 September 22, 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: September 8, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22757 Filed 9–16–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–12; Sub–No. 156X]

Southern Pacific Transportation Co; Discontinuance of Trackage Rights Exemption; In Orange County, CA

Southern Pacific Transportation Company (SPT) has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments and Discontinuances to discontinue trackage rights over a 2.99-mile section of the Anaheim Branch line owned by the Union Pacific Railroad Company (UP) in Orange County, CA.[1] The line extends from milepost 15.51, at or near UP rail station ATSF Crossing, to milepost 18.50, at or near UP rail station Fullerton.

SPT has certified that:

(1) No local traffic has moved over the line for at least 2 years;

(2) Overhead traffic has been rerouted over other lines;

(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 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.[2]

As a condition to use of this exemption, any employee affected by the discontinuance 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 October 17, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues[3] and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)[4] must be filed by September 27, 1993. Petitions to reopen must be filed by October 7, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.[5]

A copy of any petition filed with the Commission should be sent to applicant's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, room 846, San Francisco, CA 94105.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by September 22, 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 and historic preservation conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 10, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22756 Filed 9–16–93; 8:45 am]

BILLING CODE 7035–01–M

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[1] The section of line over which SPT seeks to discontinue service is embraced in a line that UP seeks to abandon in a petition for exemption filed on July 29, 1993, in Docket No. AB–33 (Sub-No. 80X). SPT's trackage rights over the rest of the line involved in Docket No. AB–33 (Sub-No. 80X) were discontinued under an exemption notice filed in Docket No. AB–12 (Sub-No. 121X) which was served and published in the **Federal Register** on March 7, 1988 (53 Fed. Reg. 7250–7251).

[2] SPT did not file an Environmental or Historic report, which it argues are not required in this instance. In any event, however, SPT incorporates by reference the reports submitted by UP in Docket No. AB–33 (Sub-No. 80X).

[3] 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.

[4] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[5] Because this is only a discontinuance proceeding, there is no need to provide for the trail use/rail banking or public use conditions routinely provided for in abandonment proceedings.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1627–93]

Closure of Temporary Asylum Interview Office in Los Angeles, California

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

EFFECTIVE DATE: The effective date of this notice is August 20, 1993.

FOR FURTHER INFORMATION CONTACT: Marianne Kilgannon-Martz, Asylum Officer, Office of International Affairs, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Attention: ULLICO, Third Floor, Telephone (202) 633–1024.

SUMMARY: This notice advises the public of the closure of the asylum interviewing site in the Federal Building at 300 N. Los Angeles Street, Los Angeles, California. All asylum applicants from the Los Angeles metropolitan area should appear at the Anaheim location for their scheduled interviews and direct all necessary mail to the Anaheim address. This notice provides information regarding the permanent site.

BACKGROUND: In 1991, INS announced that it had established seven asylum offices located in Newark, NJ; Arlington, VA; Miami, FL; Houston, TX; Chicago, IL; Los Angeles and San Francisco, CA (56 Federal Register 50810, October 9,

1991). A temporary interviewing site was maintained in the Federal Building at 300 N. Los Angeles Street, Los Angeles, California pending the establishment of a permanent location in the Los Angeles area. The permanent site was located in Anaheim in October 1992. The present mailing and street address of the Asylum Office serving the Los Angeles area is provided below.

Anaheim, California

[Mailing address]
P.O. Box 65015
Anaheim, California 92815–5015
[Street address]
290 S. Anaheim Blvd.
Anaheim, California 92805

Applicants reading in the Los Angeles metropolitan area should appear for their scheduled interviews at the above address.

Dated: September 1, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–22761 Filed 9–16–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decisions, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I

Maryland
MD930042 (Sept. 17, 1993)
New York
NY930043 (Sept. 17, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Maryland
MD 930006 (Feb. 19, 1993)

Volume II

Arkansas
AR930001 (Feb. 19, 1993)
AR930003 (Feb. 19, 1993)
AR930008 (Feb. 19, 1993)
Illinois
IL930001 (Feb. 19, 1993)
IL930002 (Feb. 19, 1993)
IL930003 (Feb. 19, 1993)
IL930004 (Feb. 19, 1993)
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Kansas
KS930007 (Feb. 19, 1993)
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KS930015 (Feb. 19, 1993)
KS930016 (Feb. 19, 1993)
KS930018 (Feb. 26, 1993)
KS930019 (Feb. 26, 1993)
KS930020 (Feb. 26, 1993)
KS930021 (May 07, 1993)
KS930022 (May 28, 1993)
KS930023 (Jul. 02, 1993)
KS930025 (Jul. 02, 1993)
KS930026 (Jul. 16, 1993)
KS930028 (Aug. 28, 1993)
Michigan
MI930001 (Feb. 19, 1993)
Oklahoma
OK930001 (Feb. 19, 1993)
OK930002 (Feb. 19, 1993)
OK930008 (Feb. 19, 1993)
OK930009 (Feb. 19, 1993)
OK930010 (Feb. 19, 1993)

OK930011 (Feb. 19, 1993)
OK930013 (Feb. 19, 1993)
OK930014 (Feb. 19, 1993)
OK930016 (Feb. 19, 1993)
OK930017 (Feb. 19, 1993)
OK930018 (Feb. 19, 1993)
OK930019 (Feb. 19, 1993)
OK930020 (Feb. 19, 1993)
OK930021 (Feb. 19, 1993)
Texas
TX930003 (Feb. 19, 1993)
TX930018 (Feb. 19, 1993)

Volume III

Arizona
AZ930001 (Feb. 19, 1993)
Idaho
ID930001 (Feb. 19, 1993)
ID930003 (Feb. 19, 1993)
ID930004 (Feb. 19, 1993)
Montana
MT930010 (Aug. 6, 1993)
Oregon
OR930001 (Feb. 19, 1993)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 10th day of September 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–22553 Filed 9–16–93; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–28,722]

Anchor Woven Label Co., Alcoa, Tennessee; Affirmative Determination Regarding Application for Reconsideration

On August 27, 1993, the Amalgamated Clothing & Textile Workers' Union (ACTWU) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on July 30, 1993 and published in the **Federal Register** on August 17, 1993 (58 FR 43656).

The union claims that the company closed the plant and has begun importing woven labels.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 10th day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93–22730 Filed 9–16–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28, 802]

Digital Equipment Corp., Buffalo, New York; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Digital Equipment Corporation, Buffalo, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–28, 802; Digital Equipment Corporation, Buffalo, New York (September 9, 1993)

Signed at Washington, DC, this 10th day of September, 1993.

Marvin M. Fooks,

Director, Office of Adjustment Assistance.

[FR Doc. 93–22729 Filed 9–16–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,853]

H.W. Jan Enterprises, Inc., South River, New Jersey; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 12, 1993 in response to a worker petition which was filed on behalf of workers at H.W. Jan Enterprises, Incorporated, South River, New Jersey.

H.W. Jan Enterprises, Incorporated is out of business. H.W. Jan Enterprises, Incorporated worked primarily for After Five a manufacturer of ladies' dresses and After Five closed permanently. Efforts to develop further information to complete the investigation and to make a determination for eligibility under section 221 of the Trade Act of 1974 have proved to be unsuccessful. Since no further information is available to complete the investigation in this case, the investigation has been terminated.

Signed at Washington, DC, this 10th day of September 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–22728 Filed 9–16–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28, 799, et al.]

Termination of Investigation

In the matter of [TA–W–28, 799] IMC–AGRICO Co. (formerly IMC Fertilizer, Inc.), Kingsford Mine, Bartow, Florida; [TA–W–28, 799A] IMC–AGRICO Co. (formerly IMC Fertilizer, Inc.), 4-Corners Mine, Bartow, Florida

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 21, 1993 in response to a worker petition which was filed on behalf of workers at IMC-Agrico Company, Bartow, Florida.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 3rd day of September 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–22731 Filed 9–16–93; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of August 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,577; United Technologies Corp., Pratt & Whitney Aircraft, East Hartford, CT

TA–W–28,578; United Technologies Corp., Pratt & Whitney Aircraft, North Haven, CT

TA–W–28,825; Edel-Brown Co., Inc., Everett, MA

TA–W–28,579; United Technologies Corp., Pratt & Whitney Aircraft, Rocky Hill, CT

TA–W–28,580; United Technologies Corp., Pratt & Whitney Aircraft, Middletown, CT

TA–W–28,581; United Technologies Corp., Pratt & Whitney Aircraft, Cheshire, CT

TA–W–28,582; United Technologies Corp., Pratt & Whitney Aircraft, Southington, CT

TA–W–28,820; Mine Safety Appliance, Esmond, RI

TA–W–28,788; Schindler Elevator Corp., Hydraulic and Architectural Products Plant, Gettysburg, PA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–28,661; Rich Tool & Dies Co., Scarborough, ME

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–28,849; Trimac Transportation Services (Western), Inc. Riddle, OR

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–28,830, TA–W–28,831; Winters Industries, A Division of Kaiser Aluminum, Canton, OH and Alliance, OH

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–28,774; Exxon Chemical Co, Bayway Chemical Plant, Linden, NJ

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA–W–28,843; July Fashions II Division of Leslie Fay, Tuscarora, PA

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA–W–28,858; Magnetek Century Electric, Inc., El Paso, TX

The workers' firm does not provide an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–28,827; The Carborundum Co., Monofrax Refractories Div., Falconer, NY

The investigation revealed that criterion (1) and criterion (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations

TA–W–28,772; Hillin-Simon Oil Co., Midland, TX

A certification was issued covering all workers separated on or after June 3, 1992.

TA–W–28,846; Liberty Optical, Newark, NJ

A certification was issued covering all workers separated on or after June 21, 1992.

TA–W–28,749; Dowty Silcofab, Fairport Harbor, OH

A certification was issued covering all workers separated on or after March 1, 1993.

TA–W–28,850 & TA–W–28,850A; Russ Togs, Inc., Long Island City, NY and New York, NY

A certification was issued covering all workers separated on or after June 22, 1992.

TA–W–28,794; Oxford of Alma, Inc., Alma, GA

A certification was issued covering all workers separated on or after May 28, 1992.

TA–W–28,904; Oxford of Alma North, Alma, GA

A certification was issued covering all workers separated on or after July 26, 1992.

TA–W–28,826; Eagle Knitting Mills, Inc., Waupun, WI

A certification was issued covering all workers separated on or after June 17, 1992.

TA–W–28,812; Wilkes Barre Apparel, Wilkes Barre, PA

A certification was issued covering all workers separated on or after June 17, 1992.

TA–W–28,824; Forster Manufacturing Co., Inc., Mallawamkeag, ME

A certification was issued covering all workers separated on or after June 11, 1992.

TA–W–28,642; Duchess Footwear Corp., South Berwick, ME

A certification was issued covering all workers separated on or after April 23, 1992.

TA–W–28,844; Parsons Industrial Diamond, West Hartford, CT

A certification was issued covering all workers producing diamond CBN and PCD tools and related administrative staff separated on or after June 15, 1992.

I hereby certify that the aforementioned determinations were

issued during the month of August 1993. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 7, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–22732 Filed 9–16–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMISSION ON MANUFACTURED HOUSING

Meeting

AGENCY: National Commission on Manufactured Housing.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 101–625, as amended, the National Commission on Manufactured Housing announces a forthcoming meeting of the Commission.

DATES: September 21, 1993, 7 p.m.–9 p.m., Committee Sessions; September 22, 1993, 8:30 a.m.–5 p.m., Full Commission Meeting; September 23, 1993, 8:30 a.m.–3 p.m., Full Commission Meeting.

ADDRESSES: Radisson Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, VA 22311. (703) 845–1010.

FOR FURTHER INFORMATION CONTACT: Carmelita Pratt, Administrative Officer, The National Commission on Manufactured Housing, 301 N. Fairfax Street, suite 110, Alexandria, VA 22314 (703) 603–0440.

Type of Meeting: Open.

Carmelita R. Pratt,

Administrative Officer.

[FR Doc. 93–22805 Filed 9–16–93; 8:45 am]

BILLING CODE 6820–EA–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Application Received Under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 13, 1993. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan at the above address or (202) 357–7817

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant*

Diane McKnight, Cathy Tate, Paul von Guerard, Harry House, Andrew Fountain, Bruce Vaughn, U.S. Geological Survey, 3215 Marine St., Boulder, CO 80303.

Activity for Which Permit Requested

The USGS–WRD scientists are conducting a study of the hydrology of Canada Stream, and other streams in the Taylor Valley. Canada Stream is located within site of Special Scientific Interest No. 12, Canada Glacier, Lake Fryxell, Taylor Valley, Victorialand. In 1990/91 a continuously-recording stream gage station was installed on Canada Stream. This year (1993/94) USGS–WRD personnel will continue to operate and maintain the gage and to collect water quality samples along the stream. These activities will use the designated paths and all other constraints will be followed.

Location

Canada Glacier, Lake Fryxell, Taylor Valley and Victorialand.

Dates: October 1, 1993–February 1, 1994.

Thomas F. Forhan,

Permit Office, Division of Polar Programs.

[FR Doc. 93–22701 Filed 9–16–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–245, 50–336; License Nos. DPR–21, DPR–65]

Northeast Utilities, (Millstone Nuclear Power Station); Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by separate Petitions dated August 21, 1993, Carmela V. Marien and Marianne W. Nericcio (Petitioners) have requested that the Executive Director for Operations expedite an immediate investigation and take accelerated enforcement action against Northeast Utilities for willful violation of the employee protection provisions of 10 CFR 50.7. As grounds for these requests, the Petitioners assert that they have been retaliated against for engaging in protected activities consisting of raising concerns regarding a computer system to be used in the execution of the licensee's fitness for duty program.

The requests are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The requests have been referred to the Director of the Office of Enforcement. By letters dated September 10, 1993, the Deputy Director of the Office of Enforcement advised the Petitioners that their request that the NRC undertake an immediate investigation would be considered as part of the Director's review of the Petitions themselves. As provided by § 2.206, appropriate action will be taken on these requests and the Petitions within a reasonable time.

Copies of the Petitions are available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 10th day of September 1993.

For The Nuclear Regulatory Commission.

Joseph R. Gray,

Deputy Director, Office of Enforcement.

[FR Doc. 93–22765 Filed 9–16–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 165 to Facility Operating License No. DPR–16 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises Technical Specification 5.2.A to change the current containment drywell design pressure of 62 psig to the new design pressure of 44 psig. Related changes to Technical Specification Bases are also revised. Unrelated changes to the Bases of Technical Specifications 3.4 and 3.5 were also made.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 8, 1991 (56 FR 37732). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (58 FR 47768).

For further details with respect to the action see: (1) The application for amendment dated July 22, 1991, as supplemented February 14, 1992, August 19, 1992, and July 12, 1993, (2) Amendment No. 165 to License No. DPR–16, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 13th day of September 1993.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–22764 Filed 9–16–93; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Disaster Relief; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of disaster relief in response to Midwestern flood; Correction.

SUMMARY: This document corrects the notice of disaster relief in response to Midwestern flood (FR Doc. 93–20601) published Tuesday, August 24, 1993 (58 FR 44741), which provides relief from certain PBGC deadlines and penalties to persons affected by the current flood in the midwestern states. As published, the notice contains errors which are in need of correction. Accordingly, the following corrections are made:

1. On page 44741, in the second column, in the twelfth line of the first full paragraph, after "business" insert ", or for which the office of a service provider, bank, or insurance company maintaining information necessary to meet the applicable deadlines,".

2. On page 44741, in the second column, in the eighteenth line of the first full paragraph, after "area" insert ", or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within such an area".

3. On page 44741, in the second column, in the eighth line of the second full paragraph, after "charges" remove "still apply".

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–22807 Filed 9–16–93; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32864; File No. SR–Amex–92–28]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by American Stock Exchange, Inc. Relating to Arbitration

September 10, 1993.

I. Introduction

On August 19, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules and procedures governing the administration of arbitration. On February 1, 1993, the Amex submitted to the Commission Amendment No. 1 to the proposed rule change which clarified the language to be included in all pre-dispute arbitration agreements with respect to class actions.[3] The Amex states that the proposed amendments codify modifications to the Uniform Code of Arbitration ("Uniform Code") already approved by the Securities Industry Conference on Arbitration ("SICA").[4]

The proposed rule change, together with Amendment No. 1, was published for comment in Securities Exchange Act Release No. 32067 (March 30, 1993), 58 FR 17918 (April 6, 1993). No comments were received on the proposal.

II. Description of the Proposals

The Amex proposes to amend its arbitration rules concerning, among other things, class action claims, pre-dispute arbitration clauses, the duty of members to arbitrate, discovery procedures in simplified arbitration cases, and interest accrual on awards. The specific proposed amendments are described more fully below.

Proposed Rule 600(d), relating to class actions, would provide that class

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] See letter from Janice M. Stroughter, Director of Hearings and Special Counsel, Amex, to Betsy Prout, Staff Attorney, Commission, dated November 5, 1992.

[4] SICA is comprised of a representative from each self-regulatory organization ("SRO") that administers an arbitration program, a representative of the securities industry, and four representatives of the public. The SROs that administer an arbitration program are the New York, American, Boston, Cincinnati, Chicago, Pacific, and Philadelphia Stock Exchanges, the Chicago Board Options Exchange, the National Association of Securities Dealers, and the Municipal Securities Rulemaking Board.

actions are ineligible for submission to arbitration. The proposal would enable brokerage customers to pursue class action claims against their broker-dealers in court notwithstanding any arbitration agreement they might have signed. The proposed Rule also provides that any claim filed by a member or members of a putative or certified class action is ineligible for arbitration at the Exchange if the claim is encompassed by a putative or certified class action filed in federal or state court, or is ordered by a court to a non-self-regulatory organization arbitration forum for class-wide arbitration. However, the proposed Rule provides that such claims are eligible for arbitration in accordance with proposed Rule 600(a) or pursuant to the parties' contractual agreement, if any, if a claimant demonstrates that it has elected not to participate in the putative or certified class action or, if applicable, has complied with any conditions for withdrawing from the class prescribed by the court.

At the same time, the proposed rule would specify that no member, allied member, member organization and/or person associated with a member or member organization should seek to enforce any agreement to arbitrate against a customer that has initiated in court a putative class action or is a member of a putative or certified class with respect to any claims encompassed by the class action unless and until:

(1) The class certification is denied;

(2) The class is decertified;

(3) The customer is excluded from the class by the court; or

(4) The customer elects not to participate in the putative or certified class action or, if applicable, has complied with any condition for withdrawing from the class prescribed by the court.

Proposed Rule 427 would require that all new pre-dispute arbitration agreements with customers include a statement regarding the ineligibility of class actions for submission to arbitration.

Proposed Rule 600(a) would restate the language found in Article VIII of the Exchange's Constitution which sets forth the duty of members to arbitrate disputes arising in connection with business conducted among themselves or with customers. The Amex states that this amendment is proposed in order to conform the Amex rules with the Uniform Code adopted by the Amex in 1980. Proposed Rule 600(c) would allow the Exchange to refer claims arising out of transactions in a readily identifiable market to the forum for that market when the claimant so consents.

The Amex also proposes to revise its simplified arbitration procedures. Currently, Exchange Rule 621 does not specifically provide a mechanism for resolving pre-hearing matters in simplified proceedings, i.e., in those cases where the amount in dispute is less than $10,000. The Amex is proposing to amend this rule to provide that in simplified proceedings, if a hearing is demanded or consented to, the General Provision Governing a Pre-Hearing Proceeding under Rule 607 would apply. If, however, a hearing is not demanded or consented to, shorter discovery periods would apply. Specifically, proposed Rule 621(h)(iii) would provide that, in cases of simplified arbitration, if no hearing is demanded or consented to, all requests for document production should be submitted in writing to the Director of Arbitration within ten business days of notification of the identity of the arbitrator selected to decide the case, and that the requesting party should serve simultaneously its requests for document production on all parties. Any response or objection to the requested document production would have to be served on all parties and filed with the Director of Arbitration within five business days of receipt of the requests for production. Pursuant to the proposed rule, the selected arbitrator would resolve all requests under Rule 621(h)(iii) on the papers submitted.

The Amex proposes to amend Rule 618 governing the payment of interest on awards. Currently, all awards bear interest from the date of the award and must be paid within thirty days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. Amended Rule 618 would require that interest accrue on awards from the date of the award only if the award is not paid within the required 30-day period or if the award is the subject of a motion to vacate which is denied, or as specified by the arbitrators in the award.

The Amex proposes to amend its rules concerning certain procedural matters. First, Rule 602 would classify individuals who are registered under the Commodities Exchange Act or who are members of a registered futures association or any commodities exchange as being from the securities industry for purposes of classification of arbitrators. Second, Rule 602(f) would clarify the time limitations applicable to any party wishing to exercise a peremptory challenge by providing that a party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five business days of notification of the identity of the persons named under Rule 602(e) (Notice of Selection of Arbitrators), 607(d) (Pre-Hearing Conference), or 607(e) (Decisions by Selected Arbitrator), whichever comes first. Next, Rule 608(d) would clarify the arbitrators' authority to proceed, at their discretion, with an arbitration when a party fails to appear at a continuation of a hearing. Finally, Rule 612 would clarify that arbitrators are empowered to take appropriate action to obtain compliance with any ruling by the arbitrators. The Amex states that such action may include the assessment of fees or costs, preclusion of documents or witnesses, and making disciplinary referrals.

The Amex states that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) [5] in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest by improving the administration of an impartial forum for the resolution of disputes relating to the securities industry.

III. Discussion

The Commission has considered the Exchange's proposed rule change and finds that, for the reasons set forth below, the proposals are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b)(5) of the Act. Section 6(b)(5) of the Act requires that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes that, because these proposed rules should aid in the just resolution of disputes between investors and broker-dealers, the proposal should further the objectives of section 6(b)(5) of the Act. The Commission also believes, for the reasons set forth below, that the proposed rule change furthers the public interest by improving the speed and efficiency of the arbitration process.

The Commission believes that the Amex's proposed rule relating to class action claims is an important initiative to protect investors and the public interest. In the past, individuals who attempted to certify class actions in litigation were subject to the enforcement of their separate arbitration contracts by their broker-dealers. Without access to class actions in appropriate cases, both investors and broker-dealers have been put to the

[5] 78 U.S.C. 78f(5) (1988).

expense of wasteful, duplicative litigation. The proposed rule would prevent this practice. In addition, proposed Amex Rule 427 will ensure that arbitration agreements clearly state that class action claims are specifically outside the scope of arbitration contracts entered into by members. Moreover, the Commission believes that, it is appropriate to amend Amex Rule 600 to restate the duty of members to arbitrate certain disputes, as specified in Article VIII of the Amex Constitution.

Based on the above, the Commission believes that the Amex's proposal to amend Rules 600 and 427 to permit certified class actions to proceed in court, while allowing individual claimants who elect not to participate in the class, or who withdraw from the class, to arbitrate should increase customer confidence in the markets and promote the efficient resolution of disputes for both investors and broker-dealers.

The Commission believes that the proposed amendment to Rule 600(c), which would permit the Amex to refer, with the claimant's consent, arbitration claims which arise in a readily identifiable market to the arbitration forum for that market should provide for a more efficient allocation of claims among the various SROs. This, in turn, should result in a more efficient allocation of the Exchange's arbitration resources and a more timely resolution of the parties' disputes.

The Commission believes that the Amex's amendments to Rule 621(h) should improve the Amex's simplified arbitration procedures by establishing clear procedures for discovery requests and document production, and should therefore assist in the fair resolution of arbitration cases involving small claims. The proposed amendment to Rule 621 would require that the requesting party, rather than the Exchange, serve all parties simultaneously with any requests for document production. The Commission believes that the proposal should save administrative time and costs while continuing to ensure that all parties receive adequate notice concerning requests for documents.

The Commission also believes the proposed amendments to Rule 618, which governs the payment of interest on awards, should improve the procedures for administering arbitration proceedings. Because the proposal generally would require the payment of awards within thirty days of receipt of the award, the proposal is designed to allow a reasonable period of time for administrative processing of award payments without the payment of interest. At the same time, the proposal should provide an incentive for the paying party to comply with the payment of the award within thirty days. As a result, the Commission believes that the proposal should encourage prompt payment of arbitration awards and increase investor confidence in the arbitration process.

The Commission also believes that it is appropriate for the rule to continue to require that all monetary awards be paid within thirty days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. This provision should preserve the paying party's ability to seek review of the award in court while postponing temporarily the payment of that award under the requirements of the Amex's rule. Conversely, because the proposal provides that an award shall bear interest from the date of the arbitration award if the award was the subject of a motion to vacate that is denied by a court, the proposal should help to protect the payee's interest in the receipt of an arbitration award without unreasonable or unjustifiable delay.

Finally, the Commission believes that it is appropriate to allow arbitrators discretion in awarding interest on the payment of awards. This provision should help the arbitrators to design an award that fully, fairly and promptly compensates a party for economic damages incurred.

The Commission believes that the proposed amendment to Rule 602, which will classify an individual who is registered under the Commodities Exchange Act or is a member of a registered futures association or any commodities exchange or is associated with any such person as being from the securities industry, for the purposes of classification of arbitrators, is consistent with the Act. the Commission believes that this amendment should promote impartial and knowledgeable decision in the arbitration of disputes between investors and broker-dealers.

The Commission also believes that the proposed amendment to Rule 602(f), Peremptory Challenge, should clarify the time requirements for the exercise of peremptory challenges in arbitration proceedings. Because amended Rule 602(f) would provide that parties who wish to exercise peremptory challenges must follow the procedures set forth in the rule following the notification of person named under Amex Rule 602(e), 607(d), or 607(e), whichever occurs first, the proposal should provide parties with clear guidelines regarding the time limitations applicable to peremptory challenges. As a result, the proposed rule changed should contribute to the prompt resolution of the parties' disputes.

Moreover, the Commission believes that the proposed amendment to Rule 608(d), Failure to Appear, should improve the efficiency and speed of arbitration. Because this amendment would clarify the authority of arbitrators to proceed with an arbitration if a party, after due notice, fails to appear at the continuation of a hearing session, the proposal should eliminate unnecessary delays in the arbitration proceedings and should assist in the prompt resolution of arbitration claims.

Finally, the Commission believes that the amendment to Amex Rule 612 should clarify the arbitrators' authority to enforce their rulings. As noted above, the Amex arbitrators may, for example, in order to obtain compliance, assess fees or costs, preclude the late submission of documents or witnesses, or make disciplinary referrals. The Commission believes that it is appropriate to amend Rule 612 to affirm the arbitrators' authority to take appropriate action to obtain compliance with any of their rulings and to provide that such interpretations and actions to obtain compliance are final and binding on the parties. The Commission believes that the amendment to Rule 612 should raise customer confidence in the arbitration process by assuring that those individuals who utilize the Amex's arbitration forum comply with the arbitrators' rulings.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[6] that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22693 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Opportunity for Hearing; Boston Stock Exchange, Inc.

September 10, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Charter Medical Corp.

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[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1991).

Common Stock, $.24 Par Value (File No. 7–11244)
RJR Nabisco Holding Corp.
Dep. Shs. Rep. 1/100 shares of Series B Cum. Pfd. Stock No Par Value (File No. 7–11245)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 1, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–22707 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Opportunity for Hearing; Chicago Stock Exchange, Inc.

September 10, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Equity Residential Properties Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–11246)
Gabelli Equity Trust, Inc.
Rights, No Par Value (File No. 7–11247)
IBM Corporation
Depository Shares (7½% Pfd-A) No Par Value (File No. 7–11248)
National Standard Company
Common Stock, $.01 Par Value (File No. 7–11249)
Salomon Brothers 2008 Worldwide Dollar Government Term Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–11250)
Voyageur Colorado Insured Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–11251)
Espirito Santo Financial Holding
American Depositary Shares (Each ADS Rep. 1 Ord. $10 Par Value (File No. 7–11252)
Georgia Power Company
ADJ Rate Pfd-A 93, No Par Value (File No. 7–11253)
PIMCO Commercial Mortgage Securities Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–11254)
ROC Communities, Inc.
Common Stock, $.01 Par Value (File No. 7–11255)
Town & Country Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–11256)
United States Filter Corporation
Common Stock, $.01 Par Value (File No. 7–11257)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 1, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–22706 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

September 10, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Aon Corp.
8% Cum. Prep. Pfd. Stock, $1.00 Par Value (File No. 7–11258)
AT&T Capital Corp.
Common Stock, $.01 Par Value (File No. 7–11259)
Bear Stearns Co.'s, Inc.
Depositary Shares (rep. 1/8 sh. 7.60A% Cum. Pfd. Stock, Ser. C) (File No. 7–11260)
Beverly Enterprises, Inc.
$2.75 Cum. Conv. Exch. Pfd. Stock, $1.00 Par Value (File No. 7–11261)
Camden Property Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–11262)
Crestar Financial Corp.
Common Stock, $5.00 Par Value (File No. 7–11263)
Eckerd Corp.
Common Stock, $.01 Par Value (File No. 7–11264)
Equity Residential Properties Trust, Inc.
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–11265)
Excel Realty Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–11266)
Motor Coach Industries International, Inc.
Common Stock, $.01 Par Value (File No. 7–11267)
Municipal Partners Fund II
Common Stock, $.001 Par Value (File No. 7–11268)
Nuveen Insured Premium Municipal Fund 2
Shares of Beneficial Interest, $.01 Par Value (File No. 7–11269)
Reading & Bates Corp.
$1.625 Conv. Pfd., $1.00 Par Value (File No. 7–11270)
Shanghai Petrochemical Co. Ltd.
American Depositary Shares (rep. 100 Cl. H shrs., RMB $1.00 Par Value (File No. 7–11271)
Southwestern Property Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–11272)
United Meridian Corp.
Common Stock, $.01 Par Value (File No. 7–11273)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 1, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–22705 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32861; File No. SR–NASD–93–49]

Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Bond Quotation Data Service Fees

September 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 1, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 NASD. 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 NASD proposes the following fee structure for the receipt of quotation and summary transaction information on high yield bonds included in the NASD's Fixed Income Pricing System ("FIPS") via securities information vendors ("Bond Quotation Data Service" or "BQDS"). All of the following is an addition to section 16 of Part VIII of Schedule D to the NASD's By-Laws.

Schedule D

Part VIII

16. Fixed Income Pricing System ("FIPS")

* * * * *

d. Bond Quotation Data Service ("DQDS")

1. Full BQDS

The charge to be paid by the subscriber for each interrogation or display device receiving Full BQDS information is $50 per month. Full BQDS information includes the bids and offers of all FIPS participants registered in each FIPS security, the inside bid/ask quotation for each FIPS security, and hourly summary transaction information on FIPS securities.

2. Limited BQDS

The charge to be paid by the subscriber for each interrogation or display device receiving Limited BQDS information is $5 per month. Limited BQDS information includes the inside bid/ask quotation for each FIPS security and hourly summary transaction information on FIPS securities.

* * * * *

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 NASD 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 NASD 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

On March 19, 1993, the Commission approved an NASD proposal to establish and operate FIPS, an electronic facility that collects, processes, and disseminates real-time, firm quotations for 30 to 50 of the most liquid high yield bonds.[1] FIPS also requires members to report all over-the-counter ("OTC") transactions in high yield bonds. In addition, the system disseminates hourly summary transaction reports on FIPS securities that provide the high and low execution prices and the accumulated trading volume for each FIPS security during the preceding hour. The NASD's service that disseminates combined quotation and summary transaction information in FIPS securities to securities information vendors for retransmission to their terminal subscribers is called the Bond Quotation Data Service or BQDS.

To formulate the FIPS fee structure, the NASD and its subsidiary corporations conducted a thorough analysis of the anticipated revenues and costs of operating FIPS. These revenue and cost assumptions were based upon forecasts and projections of the number of market participants likely to participate in FIPS, the likely demand for quotation and transaction information generated by FIPS, the volume of OTC transactions in high yield bonds, and the "start-up" and recurring costs associated with FIPS, among other things. Concurrent with the submission of this filing, the NASD submitted a separate proposal governing other FIPS fees assessed solely on NASD members.[2]

The Bond Quotation Data Service is patterned after the NASD's National Quotation Data Service which provides inside bid/ask and last sale information for securities traded in the Nasdaq Stock Market. Specifically, BQDS provides for a feed of quotation and summary transaction information in FIPS securities for access by market data vendors for dissemination to their terminal subscribers. The level of BQDS charges varies depending upon whether the subscriber receives "Full BQDS information" or "Limited BQDS information." "Full BQDS information" includes the bids and offers of all FIPS participants registered in each FIPS security, the inside bid/ask quotation for each FIPS security, and hourly summary transaction information on FIPS securities. "Limited BQDS information" includes the inside bid/ask quotation for each FIPS security and hourly, summary, transaction information on FIPS securities. In particular, the charge to be paid by a subscriber for each interrogation or display device receiving Full BQDS information is $50 per month. The charge for Limited BQDS information is $5 per month per device.

The NASD will endeavor to periodically review the FIPS fee structure, including BQDS fees, in light of the utilization of the system, the costs of past and future enhancements to the system, the costs of operating the system, the volume of OTC transactions in high yield bonds, and the demand for FIPS quotation and transaction information, among other things. These reviews will ensure that the BQDS fees are properly related to the costs associated with operating FIPS.

The NASD believes that the proposed rule change is consistent with section 15A(b)(5) of the Act. Section 15A(b)(5) requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls. Specifically, the BQDS fee structure and the schedule for other FIPS fees reflect a thorough analysis by the NASD in connection with the use and operation of FIPS are properly related to the development and operational costs of FIPS. Moreover, the NASD will periodically review the BQDS fee structure to ensure that the fees are reasonable and equitably allocated.

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[1] See Securities Exchange Act Release No. 32019 (March 19, 1993), 57 FR 16428 (order approving File No. SR–NASD–92–45) ("FIPS Approval Order").

[2] Securities Exchange Act Release No. 32843 (September 3, 1993).

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by October 8, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[3] 17 CFR 200.30–3(a)(12) (1989).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22702 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32860; International Series Release No. 581; File No. SR–NASD–93–50]

Self-Regulatory Organizations; Filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc., Relating to Extension of the Nasdaq International Service Pilot Program

September 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 1, 1993 the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 NASD. The Commission is publishing this notice to solicit comments on the proposed rule change as amended, from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change pursuant to section 19(b)(1) of the Act and Rule 19b–4 thereunder, to extend for two years (i) the pilot term of the Nasdaq International Service ("Service") and (ii) the effectiveness of certain rules ("International Rules") that are unique to the Service. This rule change does not entail any modification of the International Rules. The present authorization for the Service and the International Rules expires on October 11, 1993.

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 NASD 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 NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] On September 1, 1993, the NASD submitted Amendment No. 1 to the proposed rule change explaining the deferred implementation of the variable opening feature of the Service. See *infra* note 3 and accompanying text.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Through this rule change, the NASD proposes to extend for two years the pilot operation of the Service and the effectiveness of the International Rules governing broker-dealers' access to and use of the Service. The existing pilot operation was authorized by the Securities and Exchange Commission's ("SEC" or "Commission") approval of File No. SR–NASD–90–33 on October 11, 1991;[2] the Service itself was launched on January 20, 1992. The Service supports an early trading session running from 3:30 a.m. to 9 a.m. E.T. on each U.S. business day ("European Session") that overlaps the business hours of the London financial markets. Participation in the Service is voluntary and is open to any authorized NASD member firm or its approved broker-dealer affiliate in the U.K. A member participates as a Service market maker either by staffing its trading facilities in the U.S. or the facilities of its approved affiliate during the European Session. At present, the universe of Service market makers consists of three approved affiliates of NASD members that quote continuous markets in various Nasdaq National Market securities during the European Session.

As noted above, the NASD is seeking to extend the pilot term for two more years. During this period, the NASD plans to reevaluate the Service's operation and consider possible enhancements to broaden market-maker participation. For example, the NASD will provide the variable opening feature—which enables a Service market maker to participate during specified segments rather than the entire European Session—in conjunction with implementing the new technology being developed for the Nasdaq Stock Market.[3] It is anticipated that this will occur during the second half of 1995.

The NASD acknowledges that implementation of the variable opening feature of the Service has been deferred beyond the original 1993 target date. This result is attributable to substantial commitments of staff resources to the

[2] Securities Exchange Act Release No. 29812 (October 11, 1991), 56 FR 52082 ("Initial Approval Order").

[3] The variable opening feature was approved by the Commission on June 16, 1993. See Securities Exchange Act Release No. 32471 (June 16, 1993), 58 FR 33965. However, the NASD will not implement this feature until the second half of 1995.

technology migration for the Nasdaq Stock Market. This migration encompasses a new communications network and hardware platform as well as the next generation of the Nasdaq Workstation PC. Additionally, the functionality necessary for the variable opening has been incorporated into the requirements of the new technology. Accordingly, it was determined that staff resources should not be diverted from migration projects in order to enhance the existing technology that supports the Service, which technology will be rendered obsolete in the second half of 1995.

In sum, the NASD views the Service as a significant experiment in expanding potential opportunities for international trading via systems operated by The Nasdaq Stock Market, Inc. Accordingly, the NASD believes that this pilot operation warrants an extension to permit possible enhancements that will increase the Service's utility to the investment community.[4]

The NASD believes that the proposed rule change is consistent with sections 11A(a)(1) (B) and (C) and 15A(b)(6) of the Act. Subsections (B) and (C) of section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, broader availability of information with respect to quotations for securities, and the execution of investor orders in the best market through the use of advanced data processing and communications techniques. Section 15A(b)(6) requires, among other things, that the NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The NASD believes that the proposed extension of the Service and the International Rules is fully consistent with these statutory provisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] Assuming that the pilot term is extended, the NASD will continue to supply the Commission with the statistical reports prescribed in the initial approval order at six month intervals. See Initial Approval Order *supra* note 2.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by October 8, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22703 Filed 9–16–93; 8:45 am]

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[Release No. 34–32863; File No. SR–NASD–93–39]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Composition of Extended Hearing Committees in Disciplinary Proceedings

September 10, 1993.

On July 28, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") and amended on August 3, 1993,[1] a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder.[3] The proposal amends Article II, section 6(c) of the NASD Code of Procedure ("Code") to clarify that former Market Surveillance Committee members are eligible for service on the Extended Hearing Committees.

Notice of the proposed rule change, together with the substance of the proposal as amended, was provided by the issuance of a Commission release (Securities Exchange Act Release No. 32718, August 4, 1993) and by publication in the **Federal Register** (58 FR 42590, August 10, 1993). No comment letters were received. This order approves the rule change, as amended.

Pursuant to Article II, section 4 of the NASD Code,[4] if an NASD disciplinary hearing is expected to involve extensive testimony or complex evidence the matter may be designated for an Extended Hearing. Article II, section 6(c) of the Code requires the appointment of an Extended Hearing Committee to hear a matter so designated.[5] Section 6(c) provides that persons eligible to serve on such Committees are current or former members of the District Business Conduct Committee or the Board of Governors.

While the NASD's rules generally treat the Market Surveillance Committee as the equivalent of a District Business Conduct Committee,[6] section 6(c) does

[1] See letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Selwyn J. Notelovitz, Branch Chief, Over-the-Counter Regulation, Division of Market Regulation, SEC, dated August 2, 1993.

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1992).

[4] NASD Manual, Code of Procedure, Article II, sec. 4, (CCH) ¶ 3024.

[5] NASD Manual, Code of Procedure, Article II, sec. 6, (CCH) ¶ 3026.

[6] See, e.g., Article I, section 2(b) of the Code which defines the term "Committee" to mean either

not expressly qualify a current or former member of the Market Surveillance Committee for service on an Extended Hearing Committee. In order to correct this apparent oversight, the NASD has proposed amending section 6(c) to recognize that service on the Market Surveillance Committee qualifies an individual for service on an Extended Hearing Committee.

The Commission believes that the proposed rule change is consistent with the provisions of section 15A(b)(8)[7] of the Act in that the change enhances the NASD's disciplinary procedures contributing to the procedural fairness required by the section. By amending subsection 6(c) of the Code to permit former members of the Market Surveillance Committee to serve on Extended Hearing Committees, the NASD will have a larger pool of potential panel members which should contribute to the expeditious handling of such matters.

The Commission does not believe that the rule change will result in any burden on competition that it is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–93–39, be, and hereby is approved, effective immediately.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22704 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32868; File No. SR–NYSE–93–33]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Changes in Auxiliary Closing Procedures for Expiration Days and Extension of the Pilot Procedures

September 10, 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 September 8, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to revise the auxiliary closing procedures on expiration days by changing the deadlines for entry and cancellation of certain market-at-the-close ("MOC") orders and for imbalance publications in the pilot stocks to 3:40 p.m. and to extend the pilot for such procedures until October 31, 1994.

The Exchange has requested accelerated approval of the proposed rule change to allow the auxiliary closing procedures to be in place in time for the expiration of stock options and index products on September 17, 1993 and to allow the pilot program to continue on an uninterrupted basis through October 1994.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Special procedures regarding the entry of MOC orders on expiration Fridays were originally adopted in 1986 for quarterly triple expiration of derivative instrument products.[4] Since November 1988, these procedures have been used for each monthly expiration and apply to the so-called "pilot stocks" (the 50 most highly capitalized S&P 500 stocks and any component stocks of the major Market Index that are not included in this group of 50).[5] In April 1992, the Exchange modified the pilot procedures for handling MOC orders in all stocks on expiration Fridays.[6] In March 1993, the Exchange extended the expiration Friday auxiliary closing procedures to days on which end of calendar quarterly index expiration ("QIX") options expire.[7]

The current procedures require that MOC orders in any stock related to a strategy involving derivative index products be entered for execution by 3 p.m. and that no cancellation or reduction of any MOC order in any stock take place after 3:45 p.m. The Exchange is now proposing to modify these procedures to move the cut-off times described above to 3:49 p.m. In addition, Floor brokers representing orders related to a strategy involving derivation index products must indicate their MOC interest to the specialist by 3:40 p.m. However, a Floor broker who is handling a working order that is not derivative-related may continue to work that order until just before the close, and if so instructed by his or her customer, may turn the unfilled balance over to

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the District Business Conduct Committee or the Market Surveillance Committee, or an Extended Hearing Committee.

[7] 15 U.S.C. 78o–3 (1988).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] A complete description of the NYSE's expiration Friday auxiliary closing procedures and the proposed modifications to those procedures are attached as Exhibit A, "Information Memo," to File No. SR–NYSE–93–33.

[4] Expiration Friday is the trading day, usually the third Friday of the month, when some stock index futures, stock index options and options on stock index futures expire or settle concurrently. Triple expirations are the four times a year during the months of March, June, September, and December when all stock index futures, stock index options, options on stock index futures and individual equity options expire.

[5] The NYSE auxiliary closing procedures for expiration Fridays were initially approved by the Commission on a pilot basis for a one-year period beginning in November, 1988 and extending through October, 1989. The pilot has since been extended each year between October 1989 through October, 1993 on a one-year pilot basis. See Securities Exchange Act Release Nos. 26293 (November 17, 1988), 53 FR 47599; 26408 (December 29, 1988), 54 FR 343 (approving File No. SR–NYSE–88–37); 27448 (November 16, 1989), 54 FR 48343 (approving File No. SR–NYSE–89–36); 28564 (October 22, 1990), 55 FR 43427 (approving File No. SR–NYSE–90–49); 29871 (October 28, 1991), 56 FR 30004 (Approving File No. SR–NYSE–91–31); and 31386 (October 30, 1992), 57 FR 52814 (approving File No. SR–NYSE–92–30) ("1992 Approval Order"). See also note 11, infra.

[6] In April 1992, the Commission approved the Exchange's modified pilot MOC procedures on a temporary accelerated basis for the April 1992 expiration Friday. See Securities Exchange Act Release No. 30570 (April 10, 1992) 57 FR 13399 (April 16, 1992) (notice of filing and order granting partial accelerated approval to File No. SR–NYSE–92–09). Thereafter, the Commission approved those modifications for all expiration Fridays during the pilot period. See Securities Exchange Act Release No. 30680 (May 8, 1992), 57 FR 20720 (May 14, 1992) (order approving File No. SR– NYSE–92–09). See also note 11, infra.

[7] See Securities Exchange Act Release No. 32066 (March 30, 1993), 58 FR 17630 (April 5, 1993) (approving File No. SR–NYSE–93–16) ("QIX Auxiliary Closing Procedures Approval Order").

the specialist for execution at the market at the close.

For the pilot stocks, in addition to the change in cut-off times for order entry and cancellation described above, the Exchange is proposing a single publication of imbalances of 50,000 shares or more as soon as practicable after 3:40 p.m. This would replace the current practice of publishing such imbalances at 3 p.m., 3:30 p.m. and 3:45 p.m. The Exchange believes that this would enable market participants to gain a more accurate picture of the buying and selling interest in MOCs at expiration. After 3:40 p.m., MOC orders in the pilot stocks would be entered only to offset a published imbalance. The entry of MOC orders after 3:40 p.m. to establish or liquidate position related to a strategy involving derivative instruments would not be permitted even if such orders might offset published imbalances.

The auxiliary procedures utilized for expiration days have been approved as a pilot on a yearly basis and are due to expire on October 31, 1993. These procedures have been effective in minimizing excess volatility on the close of expiration days. The Exchange believes the procedures described above should be extended to October 31, 1994.

The Exchange continues to believe, however, that concerns about excess market volatility that may be associated with the expiration or settlement of derivative index products would be most appropriately addressed if the expiration or settlement value of all such products were based on the NYSE opening rather than the closing price on the last business day prior to the expiration or settlement of the product.

2. Statutory Basis

The basis under the Act for this proposed rule change is section 6(b)(5), which requires that rules of the Exchange be 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, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. 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–93–33 and should be submitted by October 8, 1993.

IV. Discussion

The Commission finds that the NYSE's proposal to amend its auxiliary closing procedures on expiration days by changing the deadlines for entry and cancellation of certain MOC orders to 3:40 p.m. and for imbalance publications in the pilot stocks as soon as practicable after that time, in addition to extending the pilot for such procedures through October 1994, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act.[8] Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market, and to protect investors and the public interest. For the reasons set forth below, the Commission believes that the NYSE proposal furthers the objectives of section 6(b)(5) of the Act.

The NYSE's auxiliary closing procedures have been utilized on quarterly expiration Fridays dating back to September 1986. The Commission has extended these procedures to all expiration Fridays (monthly and quarterly expirations) on a yearly pilot basis since 1988.[9] These procedures resulted from efforts by the Commission and the self-regulatory organizations to address stock market volatility associated with the expiration of index derivative products traded in conjunction with the underlying component stocks as part of index derivative related trading strategies.

In our 1992 Approval Order, the Commission extended the NYSE's MOC pilot program procedures through October 31, 1993 and requested that the NYSE provide the Commission with specific data by July 31, 1993, detailing the NYSE's experience with the pilot program and containing an analysis of the effectiveness of the expiration Friday procedures in reducing volatility. Specifically, the Commission requested data covering expiration Fridays from October 1992 through June 1993. The Commission requested that the report include: (1) The names of the pilot stocks and the imbalance (if any) at 3:30 p.m. and at the close for those stocks that had an imbalance of MOC orders of 50,000 shares or more at 3 p.m.; (2) the names of the stocks and the imbalance (if any) at the close for those stocks that did not have an imbalance at 3 p.m., but, due to cancellations, had imbalances of 50,000 shares or more at 3:30 p.m.; and (3) for those stocks with an imbalance of 50,000 shares or more at 3 or 3:30, the names of the stocks where the imbalance changed from one side of the market (sell or buy) to the other side (buy or sell) due to cancellations of MOC orders; (4) for all pilot stocks, all MOC order imbalances (of any size) as of 4 p.m.; (5) the change in price of the closing transactions from the previous trade for all pilot stocks; (6) the change in price of the closing transactions from the price of transactions at 4 p.m. (if there were no transactions precisely at 4 p.m., the NYSE was to use the price from the transaction effected closest in time to 4 p.m.) for all pilot stocks; and (7) for each pilot stock, the number of shares in MOC orders submitted by 3 p.m. that were cancelled for any reason prior to the close. The Commission also stated that the report should include: (1) The change in the Dow Jones Industrial Average ("DJIA") at the close on each

[8] 15 U.S.C. 78f(b)(5) (1988).

[9] See supra notes 4–6.

expiration Friday; (2) opening prices and daily trading ranges of the pilot stocks on expiration Fridays, as well as the following Mondays; (3) price volatility as measured by the change in price from the last regular way trade to the closing price, including historical data analyzing price volatility at the close prior to the implementation of the prohibition on cancelling MOC orders after 3:45 and the other MOC procedures. Finally, in our QIX Auxiliary Closing Procedures Approval Order, the Commission requested that the Exchange also include in its report all of the above requested data for QIX expiration days which expire at the end of a calendar quarter. The Commission requested that the NYSE provide the Commission with a report by June 1, 1993 which should have covered expirations through March, 1993, and that the NYSE provide the Commission with a follow-up report no later than July 31, 1993, which was to cover expirations from April through June, 1993.

The NYSE submitted a report to the Commission on July 7, 1993.[10] The report covers expiration Fridays for the period November 1992 to March 1993. For that period, the NYSE reports that 83 stocks had closing imbalances of 50,000 shares or greater, and of those 83 stocks, MOC orders in 37, or 44.6%, were effected at no change in price from the previous regular way trade; 33, or 39.8% were effected at a variation of one-eighth point, 9, or 10.8%, were effected at a variation of one-quarter point; and 1, 2 and 1 were effected at respective variations of three-eighths point, one-half point and five-eighths point (respective percentages were 1.2%, 2.4% and 1.2%).

The report discusses the change from closing prices on expiration Fridays to opening prices on the following Monday for stocks with 50,000 shares or greater imbalances at the close. Of the 83 stocks with such imbalances, the NYSE states that 46 (55%) opened within ⅛ point of the closing prices, 73% opened within ¼ point. The Exchange, therefore, states that it does not appear that closing prices for such stocks have a significant impact on opening prices on the next trading day.

The NYSE report also discusses the changes in MOC procedures that were put into effect in April, 1992, which prohibit cancellations or reductions of MOC orders (except for bona fide errors) after 3:45 p.m. The NYSE states that the average number of shares on imbalance at the close for the five months prior to April 1992 was 2,991,000, while the average imbalance for April through June 1992 was 2,418,100 (equalling 19% lower in the months where MOC order cancellations were prohibited after 3:45). For the period November 1992 through March 1993, the report states that the average number of shares on imbalance was 1,813,800. According to the Exchange, this represents a decline of 604,300 shares or 25% as compared to April through June 1992. The report also states that, for both stocks and shares, imbalances consistently declined from the initial imbalance publication after 3 p.m. to 4 p.m. For example, in December 1992, there were 52 pilot stocks with (buy) imbalances of 50,000 shares or more for a total imbalance of 14,275,200 shares. By 4 p.m., only 25 stocks had a buy imbalance of 50,000 shares or greater, for a total of 3,222,100 shares, while one stock had a sell imbalance of 81,700 shares. This data represents a 50% reduction for number of stocks and a 77% reduction for shares.

With respect to QIX expiration procedures, the Exchange states that a review of MOC data from March 31, 1993 shows that price volatility as measured by the change in price from the last regular way trade to the closing trade averaged .08 point per QIX pilot stock. As to imbalances, there were 3 QIX pilot stocks with imbalances of 50,000 shares or more at 3 p.m., 10 at 3:30 p.m. and 14 at 3:45 p.m.[11] There was only one QIX pilot stock with a 50,000 shares or more imbalance at the close.

As noted above, pursuant to the NYSE pilot program, the auxiliary closing procedures for expiration Fridays and QIX expiration days (cumulatively, "expiration days") place limitations on MOC order-entry with regard to orders related to any strategy involving an expiring derivative index product. The auxiliary closing procedures also restrict the cancellation of MOC orders and provide for the dissemination of MOC order imbalances of 50,000 shares or more in certain pilot securities. The present proposal would change the MOC order-entry cut-off time from 3 p.m. to 3:40 p.m. for orders related to an index derivative trading strategy and change the time for prohibiting cancellation of MOC orders from 3:45 to 3:40, in addition to extending the pilot procedures, as modified, for a one year pilot period through October 1994. MOC order cancellations for bona fide errors would continue to be accepted. The NYSE's dissemination of MOC order imbalances in the pilot stocks and the end of month calendar quarter pilot stocks would occur as soon as practicable after 3:40 p.m., rather than after 3, 3:30 and 3:45 p.m. Once a publication of an imbalance in a pilot stock has been made, any MOC orders subsequently entered in such pilot stock will be accepted only to trade on the opposite side of the market in relation to such published imbalance. The entry of an MOC order to establish or liquidate positions related to a strategy involving derivative instruments, however, would not be permitted even if such orders might offset published imbalances.

The Commission believes that the proposed changes to the auxiliary closing procedures should enable market participants to gain a more accurate picture of the buying and selling interest in MOC orders at expiration. The Commission continues to believe that, by requiring early submission of MOC orders and disseminating significant imbalances (50,000 shares or more) in certain specified stocks, the NYSE should be able to attract contra-side interest to help alleviate imbalances caused by the liquidation of stock positions related to index derivative product trading strategies. In this regard, the NYSE's most recent report concerning expiration Friday volatility and the expiration Friday closing procedures indicates that the procedures have worked relatively well and may have resulted in more orderly markets at the close on expiration Fridays.

The Commission believes, however, that the proposed rule change may help to improve the current MOC procedures by establishing a simultaneous MOC order entry and MOC order cancellation time of 3:40 p.m., and by providing a single MOC order imbalance dissemination as soon as practicable after 3:40 p.m. These changes may make the dissemination imbalance more reflective of actual investor interest in a particular stock, primarily because the MOC orders included in those imbalances may not be cancelled thereafter, except in cases of bona fide

[10] See letter from Robert McSweeney, Senior Vice President, Market Surveillance, New York Stock Exchange, Inc. to Sharon Lawson, Esq., Assistant Director, Division of Market Regulation, Securities and Exchange Commission, dated July 6, 1993.

[11] On expiration Fridays, the MOC order imbalance dissemination procedures apply to the "pilot stocks," which are the fifty highest weighted stocks underlying the S&P 500 index, and any of the stocks underlying the Major Market Index not included in that group. On QIX settlement days, the same auxiliary closing procedures are used, except the MOC order imbalance dissemination procedures apply to the end of month calendar quarter pilot stocks, which are the fifty highest weighted S&P 500 stocks, any component stocks of the Major Market Index not included in this group, and the ten highest weighted stocks of the S&P MidCap 400 Index (except for QIX on the MidCap 400, the S&P MidCap 400 Index options currently expire at the opening on expiration Fridays).

errors. Moreover, the Commission believes that 3:40 may be an appropriate cut-off time for MOC order entry and cancellation because, while relatively near the close, there still should be sufficient time for the NYSE to attract contra-side interest to help alleviate imbalances caused by liquidations related to expiring index contracts. The revised MOC procedures appear to balance the need to provide the investing public with timely and reliable notice of expiration-related order flow at the close with the need to avoid unduly infringing on legitimate trading strategies.

The Commission is approving an extension of the pilot program through October 1994, with the proposed modifications discussed herein. As long as some index derivative products continue to expire based on closing stock prices on expiration Fridays, the Commission agrees with the NYSE that such procedures are necessary to provide a mechanism to handle the potential large imbalances that can be engendered by firms unwinding index derivative related positions. During the pilot extension, the Commission expects the NYSE to continue to monitor closely the effectiveness of the procedures, and to submit a report with all of the same data previously requested for prior periods,[12] with appropriate modifications to allow for the changes in cut-off times and the single 3:40 imbalance dissemination. The report should cover all expirations through June 1994, and must be submitted to the Commission no later than July 31, 1994,[13] along with a proposed rule change which should either request an additional extension of the pilot program or permanent approval of the pilot procedures.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof. This will permit the procedures to continue on an uninterrupted basis, and will allow the NYSE to implement the modified time frames for entry and cancellation of MOC orders and dissemination of imbalances on the September 17, 1993 expiration. Further, on September 3, 1993, the NYSE issued an Information Memo to its members notifying them, subject to Commission approval, of the upcoming changes to the expiration Friday procedures for the September 17, 1993 expiration.[14] Finally, although modified by this order, special auxiliary closing procedures have been utilized by the NYSE since 1986, and the procedures are intended to reduce excessive market volatility at the close.

It is therefore ordered, pursuant to section 19(b)(2)[15] that the proposed rule change is hereby approved on a pilot basis through October 31, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22769 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[12] See 1992 Approval Order, supra note 4.

[13] The Commission notes that this request for information is not exclusive and that the NYSE should add any additional data and analysis to the report in order to assess the effectiveness of the procedures in reducing excess market volatility on expiration Fridays.

[14] See supra note 3.

[15] 15 U.S.C. 78s(b)(2) (1988).

[16] 17 CFR 200.30–3(a)(12) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

September 13, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Salomon Brothers 2008 Worldwide Dollar Government Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–11237)

Equity Residential Properties Trust
Common Stock, $.01 Par Value (File No. 7–11238)

United States Filter Corporation
Common Stock, $.01 Par Value (File No. 7–11239)

Household International, Inc.
Depositary Shares Representing 1–40th of a share of 7.35% Cum. Pfd. Stock (File No. 7–11240)

RJR Nabisco Holdings Corporation
Depositary Shares each representing 1–100th of a shares Cum. Pfd Stock (File No. 7–11241)

PIMCO Commercial Mortgage Securities Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–11243)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–22766 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25879]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 10, 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 October 4, 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.

National Fuel Gas Company, et al. (70–8251)

National Fuel Gas Company ("NFG"), 30 Rockefeller Plaza, New York, New

York 10112, a registered holding company, National Fuel Gas Distribution Corporation ("Distribution"), 10 Lafayette Square, Buffalo, New York 14203, a gas utility subsidiary company of NFG, and National Fuel Gas Supply Corporation ("Supply"), National Fuel Resources, Inc. ("Resources"), Seneca Resources Corporation ("Seneca"), and Empire Exploration, Inc. ("Empire"), each of 10 Lafayette Square, Buffalo, New York 14203, each a wholly-owned non-utility subsidiary company of NFG (each subsidiary a "Covered Subsidiary", collectively, "Covered Subsidiaries"), have filed a declaration under section 12(b) of the Act and rule 45 thereunder.

NFG proposes to provide guarantees, through December 31, 1998, for a total of up to $500 million of certain obligations of the Covered Subsidiaries, not to exceed the following amounts outstanding at any given time for each Covered Subsidiary: Distribution—$350 million; Supply—$50 million; Resources—$50 million; Seneca—$50 million; and Empire—$10 million. It is stated that the guarantees will not exceed five years' duration.

It is also stated that the guarantees include the guarantee of obligations associated with:

(1) Gas transportation agreements entered into with pipelines by shippers such as Distribution and Supply;

(2) Gas purchase agreements entered into by suppliers with gas marketers such as Resources;

(3) Gas sales agreements entered into by retail and wholesale suppliers with gas marketers such as resources or producers such as Empire and Seneca (Distribution may also become involved in the wholesale marketing of gas and thus might also make these contracts); and

(4) Any and all other agreements between parties not affiliated with the NFG system and any one or a combination of the Covered Subsidiaries relating to the transportation, storage or supply of natural gas.

In addition, the Covered Subsidiaries may, from time to time, enter into partnership agreements or joint venture relationships with third parties wherein the entity so formed would undertake activities relating to the transportation, storage or supply of natural gas. Accordingly, NFG and the Covered Subsidiaries also seek authority for NFG to provide a parent guarantee to the extent of the Covered Subsidiary's obligations undertaken as part of such a partnership or joint venture. NFG states that, to the extent that the entry into a partnership or joint venture involves a jurisdictional event, NFG and/or any one or all of the Covered Subsidiaries will seek further Commission authorization to enter into such partnership or joint venture.

NFG will pay no fees, expenses or penalties associated with any of the guarantees. NFG will, however, as guarantor assume the obligations of the Covered Subsidiary upon a payment default. In the event of default, the Covered Subsidiary would be responsible to repay NFG for any payments NFG, as guarantor, must make on behalf of the Covered Subsidiary plus any interest expense (at the highest incremental interest rate NFG must pay for borrowing through the NFG system money pool) or other expenses incurred or paid by NFG as guarantor.

Jersey Central Power & Light Company (70–8267)

Jersey Central Power & Light Company ("JCP&L"), 300 Madison Avenue, Morristown, New Jersey 07962–1911, a public-utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application under sections 9(a) and 10 of the Act.

By order dated June 14, 1988 (HCAR No. 24664), the Commission, among other things, authorized JCP&L to sell and lease back its 8.37% undivided ownership interest ("Ownership Interest") in the Merrill Creek Reservoir Project located in Harmony Township, New Jersey ("Merrill Creek"). JCP&L's 8.37% Ownership Interest represents an entitlement to releases from about 4,000 acre feet of reservoir storage capacity. JCP&L states that its entitlements to Merrill Creek reservoir releases are substantially in excess of its current and projected requirements for the foreseeable future. By order dated April 8, 1993 (HCAR No. 25785), the Commission authorized JCP&L to sublease a portion of its excess capacity to a nonaffiliate for use in a cogeneration project in Logan Township, New Jersey.

JCP&L now proposes to sublease an additional portion of its storage capacity to Northampton Water Supply, Inc. or an affiliate thereof ("Northampton"), pursuant to a new sublease agreement ("New Sublease"). Northampton will use such capacity for a cogeneration project to be located in Northampton, Pennsylvania.

Under the terms of the New Sublease, Northampton would lease from JCP&L, on an annual basis, 135 acre feet of such storage capacity ("Committed Capacity"), as well as an additional 135 acre feet of storage capacity not then utilized by JCP&L, if required by Northampton for make-up water purposes ("Standby Capacity"). JCP&L would, however, be permitted to sell or lease the Standby Capacity to a third party, subject to Northampton's right of first refusal.

The New Sublease will have an initial term of 25 years, commencing in 1995, subject to Northampton's right to renew the New Sublease for a term and at prices to be negotiated at the time of expiration of the New Sublease, provided neither JCP&L nor its affiliates then require the Committed Capacity or Standby Capacity. The rental payments for the Committed and Standby Capacity have been structured to at least equal, during the term of the New Sublease on a present value basis, a pro rata portion of JCP&L's rent payments to the lessor of Merrill Creek. JCP&L intends to apply the rental payments for the Committed and Standby Capacity to its rental obligations under the lease agreement or for other general corporate purposes.

Semi-annual rental payments for the Committed Capacity would commence on July 30, 1995 at the rate of $55,000, increasing over the term of the New Sublease to $177,500 in 2019. To the extent that it utilized the Standby Capacity in any year, Northampton would pay JCP&L additional semi-annual rentals beginning at $55,000 on July 30, 1996 and increasing to $177,500 in 2020. If in any year Northampton utilized in excess of 270 acre feet of storage capacity, the rental payments for the Standby Capacity in that year would be increased ratably. In addition, Northampton would pay its pro rata share of JCP&L's Merrill Creek pumping costs, operation and maintenance and certain other expenses, and JCP&L's related depreciation charges. Northampton would also agree to pay $20,000 to JCP&L to cover JCP&L's transaction costs in connection with entering into the New Sublease.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22694 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19705; File No. 812–8478]

The Equitable Life Assurance Society of the United States, et al.; Application for Exemption

September 10, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Equitable Life Assurance Society of the United States ("Equitable") and Separate Account A of The Equitable Life Assurance Society of the United States (the "Separate Account").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under a group variable annuity contract (the "Equi-Vest Contract").

FILING DATE: June 29, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on October 5, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants: c/o Mary P. Breen, Vice President and Counsel, The Equitable Life Assurance Society of the United States, 787 Seventh Avenue, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Senior Attorney, or Michael V. Wible, Special Counsel at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Equitable is a stock life insurance company that has been in business since 1859. Equitable is the depositor and principal underwriter of the Separate Account.

2. The Separate Account was originally registered under the Act as a management investment company. Since December 18, 1987, the Separate Account has been organized as a unit investment company. The Separate Account is used to fund benefits under the Equi-Vest Contract and certain other contracts, certificates or agreements. The Separate Account is divided into subaccounts ("Investment Funds"), each of which invests solely in the shares of one of the corresponding portfolios of The Hudson River Trust, a management investment company registered under the Act.

3. Certificates under the Equi-Vest Contract may be used to fund individual retirement annuities ("IRAs"), including those established from qualified plan distributions or after-tax contributions to a non-qualified ("NQ") annuity.

4. Equitable deducts from a participant's account value for an IRA certificate an administrative charge equal to the lesser of $30 or 2% of such account value (adjusted to include any withdrawals made during that year) for the first two contract years and $30 for each contract year thereafter. For NQ certificates, the administrative charge is the lesser of $24 or 2% for the first two contract years and $24 for each contract year thereafter. Equitable has reserved the right, upon 90 days advance written notice to participants, to increase the administrative charges if actual administrative costs increase, but the charge is guaranteed never to exceed $65 annually subject to applicable law. Applicants represent that these annual charges are not greater than the cost of administering the Equi-Vest Contract for one year.

5. Equitable also will assess each Investment Fund of the Separate Account with a daily asset charge at an effective annual rate of .25% for administrative expenses associated with the Equi-Vest Contract. Applicants do not expect that the total revenues from this charge together with the annual administrative charge will exceed the expected costs of the administrative services rendered.

6. No front-end sales charge is collected or deducted at the time contributions are made. A contingent deferred sales charge ("Withdrawal Charge") will be assessed against certain withdrawals. The Withdrawal Charge is 6% of the amount deemed attributable to withdrawn contributions which have been made in the current and five prior contract years. Contributions will be withdrawn in the order they were made. Under certain circumstances, a Withdrawal Charge will not be assessed. The amounts obtained from this charge will be used to defray sales expenses including commissions and other promotional or distribution expenses associated with printing and distribution of prospectuses and sales literature. The Withdrawal Charge may be insufficient to cover all distribution expenses relating to the Equi-Vest Contract. In that event, if a profit is realized from the mortality and expense risk charge, all or a portion of the mortality and expense risk charge might be viewed as providing for a portion of these distribution costs.

7. Equitable's current practice is to deduct a charge for premium taxes from the amount applied to provide an annuity benefit. Equitable has reserved the right to deduct any such charge from contributions or from amounts withdrawn or surrendered. Equitable does not expect to profit from this charge.

8. Equitable deducts from a participant's account value a charge of $25 for each direct transfer of amounts under a certificate to a third party or exchange of a certificate for another contract or certificate issued by another carrier. Equitable has reserved the right to increase this fee to a maximum of $65 for each direct transfer or exchange. Applicants represent that this charge is not greater than the cost of effecting a third party transfer or exchange.

9. Equitable proposes to deduct from the Separate Account a daily asset charge for mortality and expense risks at an effective annual rate of 1.10%. The charge is .60% for mortality risks and .50% for expense risks. This charge, combined with the daily administrative charge of .25%, is guaranteed not to exceed an effective annual rate of 1.35% and cannot be increased.

10. Equitable assumes a mortality risk by its contractual obligation to pay a death benefit, upon an annuitant's death, in either a lump sum or in the form of an annuity payment option. The death benefit is the greater of (i) the annuity account value as of the date Equitable receives proof of death, or (ii) the total value of all contributions made (less any applicable taxes) adjusted for total withdrawals. Equitable also assumes a mortality risk by its contractual obligation to make annuity payments for the entire life of the annuitant under guaranteed fixed annuity options involving life contingencies. Equitable assumes an additional mortality risk by its contractual guarantees related to annuity purchase rates. Equitable has reserved the right, however, to change the actuarial basis for the tables of guaranteed annuity payments at any time after the fifth anniversary of the date on which the participant is enrolled under the group annuity contract and no earlier than five years

from the date of the last change thereafter. Finally, Equitable assumes a mortality risk by its contractual obligation to waive the contingent deferred sales charge upon payment of the death benefit.

11. Equitable assumes an expense risk because the administrative charges may be insufficient to cover actual administrative expenses. Equitable commits itself throughout the life of the Equi-Vest Contract to pay all expenses, without limit as to amount, relating to the administration of the Equi-Vest Contract and the Separate Account. Although Equitable has reserved the right to increase the annual administrative charge, any such increase will not result in a recovery of the expense already incurred.

12. If the administrative charges and the mortality and expense risk charge are insufficient to cover the expenses and costs assumed, the loss will be borne by Equitable. Conversely, if the mortality and expense risk charge proves more than sufficient, the excess will be profit to Equitable. Equitable expects a profit from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Sections 26(a)(2)(C) and 27(c)(2) prohibit a registered unit investment trust and any depositor or underwriter thereof from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services. Applicants request exemptions from sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the deduction of the mortality and expense risk charge from the assets of the Separate Account under the Equi-Vest Contract.

2. Applicants state that they have reviewed publicly available information regarding products of other companies taking into consideration such factors as: Guaranteed minimum death benefits; the existence of guaranteed annuity purchase rates; market sector; current charge levels; the existence of charge level guarantees; and the manner in which charges are imposed. Based upon this review, Applicants have concluded that the mortality and expense risk charge is within the range of charges determined by industry practice for comparable products. Applicants will maintain at their principal office, and make available on request to the Commission or its staff, a memorandum setting forth in detail the variable annuity products analyzed and the methodology, and results of, Equitable's comparative review.

3. The contingent deferred sales charge may be insufficient to cover all distribution costs. In that event, if a profit is realized over time from the mortality and expense risk charge, all or a portion of the mortality and expense risk charge might be viewed as providing for a portion of these distribution costs. Notwithstanding the foregoing, Equitable has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Account and investors. The basis for such conclusion is set forth in a memorandum which will be maintained by Equitable at its principal office and will be available on request to the Commission or its staff.

4. Equitable also represents that the Separate Account will invest only in an underlying mutual fund which undertakes, in the event it should adopt any plan under Rule 12b–1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the Act.

Conclusion

Applicants submit that, for all of the reasons stated herein, the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the Act meet the standards set out in section 6(c). Applicants assert that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22768 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19700; 811–3698]

Financial Tax-Free Money Fund, Inc.; Application

September 10, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Financial Tax-Free Money Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on August 12, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 5, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 7800 East Union Avenue, suite 800, Denver, CO 80237.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 272–2190, or Robert A. Robertson, Branch Chief, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management company organized as a corporation under the laws of the State of Colorado. On March 23, 1983, applicant registered under the Act as an investment company and filed a registration statement under the Securities Act of 1933 to register its shares. The registration statement was declared effective on June 23, 1983, and applicant's initial public offering commenced immediately thereafter.

2. On January 20, 1993, applicant's board of directors approved a plan to reorganize applicant as the INVESCO Tax-Free Money Fund series (the "INVESCO Fund"), a new series of INVESCO Money Market Funds, a Maryland Corporation. Applicant's investment adviser is INVESCO Group, Inc. Accordingly, the board also made the findings required by rule 17a–8

under the Act.[1] On April 13, 1993, applicant filed definitive proxy materials with the Commission relating to the proposed reorganization. Applicant's shareholders approved the reorganization at an annual shareholders meeting held on May 24, 1993.

3. Pursuant to the plan of reorganization, applicant transferred all of its assets and liabilities to the INVESCO Fund on July 1, 1993 in exchange for shares of the INVESCO Fund equal to the number of applicant's shares outstanding immediately prior to the transfer. Applicant distributed the INVEST Fund shares it received to its shareholders in exchange for their common stock in applicant. Each shareholder received the number of shares in the INVESCO Fund equal to the number of shares the shareholder held in applicant. No brokerage commissions were incurred in this reorganization.

4. All expenses of the reorganization, including the costs of preparing, printing and distributing the proxy materials, will be borne by applicant or the INVESCO Fund. As of the date of the application, applicant has paid a total of $29,942 in connection with the reorganization, consisting of expenses for blue sky registration, solicitation, printing, mailing, auditing and other miscellaneous costs.

5. As of the date of the application, applicant had no assets, debts or liabilities, and was not a party to any litigation or administrative proceeding.

6. Applicant has filed a statement of intent to dissolve and articles of dissolution with the Secretary of State of Colorado.

7. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–22708 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[1] Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.

[Release No. IC–19704; File No. 812–8300]

Hartford Life Insurance Co., et al.; Application

September 10, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Hartford Life Insurance Company ("Hartford") and Separate Account VL I of Hartford Life Insurance Company (the "Account") (together, the "Applicants").

RELEVANT 1940 ACT SECTIONS AND RULES: Order requested under section 6(c) of the Act exempting Applicants from section 27(a)(3) of the Act and Rule 6e–3(T)(b)(13)(ii) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit them to issue flexible premium variable life insurance policies that provide for a front-end sales load on premium payments made in any given year up to a maximum amount and no sales charge on premiums in excess of that amount.

FILING DATE: The Application was filed on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on October 5, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 200 Hopmeadow Street, Simsbury, CT 06089.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney, at (202) 272–3046 or Michael Wible, Special Counsel, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Hartford is a stock life insurance company originally organized under the laws of Massachusetts in 1902 and subsequently redomiciled to Connecticut. It is owned by Hartford Fire Insurance Company which is a subsidiary of ITT Corporation. The Account was established by Hartford on September 21, 1992 pursuant to the laws of Connecticut. The Account is a separate account within the meaning of the Act and is registered under the Act as a unit investment trust.

2. The Policies are flexible premium variable life insurance contracts. Prior to issue, the Policyowner will choose the level of periodic premium payments desired ("Scheduled Premiums"), within a range determined by Hartford based on a variety of factors including the face amount of the Policy, the insured's sex (except where unisex rates apply), age at issue and risk classification. The Policyowner may elect to pay the Scheduled Premiums at the predetermined interval and may pay other premiums of at least $50 ("Unscheduled Premiums") at any time.

3. Beginning on the date that the Policy is effective (the "Policy Date") and continuing for a period of one to ten years, as selected by the Policyowner, Hartford will guarantee that the Policy will not lapse if the Policyowner pays the Scheduled Premiums when due. If Scheduled Premiums are not paid, the Policy will stay in force as long as the Policy Surplus exceeds the indebtedness under the Policy. Policy Surplus for the first year will be zero. Thereafter, the Policy Surplus will be the account value minus the "target account value" for the previous policy year, calculated as of the last day of the previous policy year. The target account value will be the value necessary to guarantee the benefits shown in the Policy. Once determined for a given year, the Policy Surplus will remain constant for the entire policy year. After the guarantee period, the Policyowner may change the Scheduled Premiums to any level desired and the Policy will not lapse as long as the cash surrender value of the Policy less indebtedness is sufficient to cover the monthly deductions under the Policy. During the Guarantee Period, the death benefit under the Policy will be no less than the initial face amount as long as certain Scheduled Premiums are paid or are provided for by favorable investment performance.

4. The Policies provide for a front-end sales load that will be based on the

amount of Scheduled Premiums for the Policy, the Guarantee Period selected by the Policyowner and any Unscheduled Premiums paid. The maximum front-end sales load will be 50% of premiums paid during the first policy year, 11% of premiums paid during years two through ten, and 3% of premiums paid in policy years eleven and beyond. No front-end sales load will be imposed on premiums that exceed the Guideline Annual Premium and, during the first Policy year, no front-end sales load will be imposed on premiums that exceed the Scheduled Premium (if it is less than the Guideline Annual Premium) "the Maximum Sales Load Premium").

5. If a Policy lapses or is surrendered within the first nine years, a contingent deferred sales charge ("CDSC") will be assessed against the account value of the Policy prior to the lapse or surrender. The amount of the CDSC for the first policy year will be established by Hartford and will decrease by an equal amount each Policy Year until it reaches zero during the tenth Policy Year. The level of the CDSC will vary based on the first year Scheduled Premium and the length of the Guarantee Period. Generally, the shorter the Guarantee Period, the lower the CDSC. The maximum first year CDSC as a percentage of the first year Scheduled Premium will be assessed on Policies with a ten year Guarantee Period and with a first year Scheduled Premium less than or equal to a Guideline Annual Premium. The actual schedule of Surrender Charges for a Policy will be set forth in the Policy.

6. Applicants represent that the aggregate of the front-end sales load and the CDSC assessed in connection with a Policy will not exceed sales load limitations specified in Rule 6e–3(T)(b)(13)(i)(A). Specifically, the total sales load under a Policy will not exceed 180% of the Guideline Annual Premium, or nine percent of the sum of the Guideline Annual Premium that would be paid over a twenty year period or the life expectancy of the insured if it is less than twenty years. If a Policy is surrendered during the first two policy years, the Policyowner may be entitled to a refund of some of the front-end sales load or CDSC. The refund will be equal to the excess, if any, of the actual front-end sales load and CDSC assessed under the Policy over: the sum of 30% of aggregate payments less than or equal to one Guideline Annual Premium plus 10% of aggregate payments greater than one but not more than two Guideline Annual Premiums; and 9% of payments in excess of two Guideline Annual Premiums.

Applicants' Legal Analysis

1. Section 27(a)(3) of the Act provides that the amount of sales charge deducted from any of the first twelve monthly payments on a periodic payment plan certificate by any registered investment company issuing such certificates, or any depositor or underwriter for such company, may not exceed proportionately the amount deducted from any other such payment, and that the amount deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment. Rule 6e–3(T)(b)(13)(ii) provides an exemption from section 27(a)(3) provided that the proportionate amount of sales charge deducted from any payment does not exceed the proportionate amount deducted from any prior payment, unless an increase is caused by reductions in the annual cost of insurance or reductions in sales load for amounts transferred to a variable life insurance policy from another plan of insurance.

2. Under the Policy's sales load structure, no front-end sales load will be deducted from premiums paid in any given year in excess of the Maximum Sales Load Premium. Thus, according to Applicants, a Policyowner could pay a premium in any given Policy Year from which no front-end sales load deduction is made, then pay the Scheduled Premium in the next Policy Year from which a front-end sales load will be deducted. Applicants state that this scenario would appear to give rise to a violation of the so-called "stair-step" provisions in sections 27(a)(3) of the Act. Moreover, the exemption provided by Rule 6e–3(T)(b)(13)(ii) does not appear to apply to this situation.

3. Applicants submit that the premiums up to the Maximum Sales Load Premium serve different purposes and have higher levels of sales expenses associated with them than premiums in excess of such Maximum Sales Load Premium ("Excess Premium"). The Premiums up to the Maximum Sales Load Premium will be applied primarily to guarantee policy benefits. Excess Premiums will increase the investment element of the Policy. When analyzed separately, the front-end sales load chargeable to premiums up to the Maximum Sales Load Premium will comply with Rule 6e–(T)(b)(13)(ii) and the front-end sales load chargeable to Excess Premiums will remain level (at zero) and never increase.

4. Applicants state that Hartford could impose the higher front-end sales load equally on all premium payments up to the maximum permitted limits. Applicants submit that such an arrangement would be to the detriment of Policyowners, however, because Policyholders benefit from the absence of a front-end sales load in connection with Excess Premiums.

5. Applicants submit that the sales load structure in the policy is designed to give Policyowners flexibility with respect to premium payments while permitting Hartford to deduct only those charges deemed necessary to support the benefit guarantees under the Policies. Applicants contend that the deduction of a front-end load on only the premiums paid up to the Maximum Sales Load Premium does not implicate the policy concerns that underlie the stair-step provisions of section 27(a)(3) of the Act.

Conclusion

For the reasons stated above, Applicants submit that the requested exemptions, in accordance with the standards of section 6(c) of the Act, are consistent with the protection of Policyowners and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22767 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19702; 812–8482]

Investors Life Insurance Co. of Nebraska et al.; Application for Exemption

September 10, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of application for exemptions under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Investors Life Insurance Company of Nebraska ("Investors"), Investors Life Separate Account D ("Separate Account D"), and North American Management ("NAM").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit them to deduct a mortality and expense risk charge from the assets of Separate Account D, which funds individual flexible premium variable annuity contracts.

FILING DATES: The application was filed on July 7, 1993 and amended on September 8, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 5, 1993, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Investors Life Insurance Company of Nebraska, One Midland Plaza, Sioux Falls, South Dakota 57193.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Counsel, at (202) 504–2802, or Michael V. Wible, Special Counsel, at (202) 272–2026, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Investors was incorporated in 1961 in Nebraska, and was redomesticated to South Dakota in 1977. Investors is licensed to do business in 49 states and the District of Columbia. Investors is a subsidiary of Midland National Life Insurance Company, which, in turn, is a subsidiary of Sammons Enterprises, Inc.

2. Separate Account D was established by Investors as a separate account under South Dakota law on April 30, 1993 pursuant to a resolution of Investors' Board of Directors. Separate Account D is registered under the 1940 Act as a unit investment trust. The assets of Separate Account D are owned by Investors, but are held separately from Investors's other assets and are not chargeable with liabilities incurred in any other business operation of Investors (except to the extent that assets in Separate Account D exceed the reserves and other liabilities of Separate Account D). The income, capital gains, and capital losses incurred on the assets of Separate Account D are credited to or charged against the assets of Separate Account D, without regard to the income, capital gains, or capital losses arising out of any other business that Investors may conduct.

3. Separate Account D will invest in shares of one or more of the investment portfolios of the Fidelity Variable Insurance Products (VIP) Fund or the Fidelity VIP Fund II (the "Funds"). These Funds are diversified, open-end management investment companies, and are advised by Fidelity Management and Research Company. The assets of each portfolio of a Fund are separate from the others, and each portfolio has separate investment objectives and policies. As a result, each portfolio operates as a separate investment fund, and the investment performance of one portfolio has no effect on the investment performance of any other portfolio. Separate Account D has a number of investment divisions, each of which invests solely in shares of a specific portfolio of a Fund.

4. NAM will serve as the distributor and principal underwriter of the individual flexible premium variable annuity contracts (the "Contracts") to be issued by Separate Account D. NAM is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc.

5. The Contracts may be purchased on a non-tax qualified basis, or they may be purchased and used in connection with retirement plans or individual retirement accounts that qualify for favorable federal income tax treatment. The Contracts may be purchased with a monthly premium payment of at least $100 (for a Contract purchased and used in connection with a tax-deferred 403(b) annuity), and $2000, for the initial premium payment on any other contract. Subsequent premium payments must be at least $50. The owner of the Contract can allocate premiums to one or more investment divisions of Separate Account D, or to Investors' general account. Under the Contracts, the annuitant may receive annuity payments that are either fixed in amount or variable, and that last for a fixed duration or for life.

6. Each contract year, Investors will deduct a contract maintenance charge of $33. This charge will be deducted from the contract value at the end of each contract year prior to the maturity date of the Contract (and upon a full surrender on any date other than a contract anniversary) to compensate Investors for the administrative services that it provides to Contract owners. Investors also deducts a daily administrative expense charge from the assets of each investment division of Separate Account D. This charge is equal to an effective annual rate of .15% of the net assets of each such investment division. Investors does not anticipate making any profit from the contract maintenance charge or the daily administrative expense charge. Investors will monitor its administrative expenses and the proceeds of those charges at least annually to ensure compliance with Rule 26a–1 under the 1940 Act. Investors guarantees that neither the annual contract maintenance charge nor the daily administrative expense charge will increase during the life of the Contract.

7. To cover its expenses of distributing the Contracts, Investors assesses a contingent deferred sales charge of up to 7% of the premiums withdrawn on certain full surrenders or partial surrenders of Contract value. The applicable percentage charge declines by one percent each year that the Contract is in effect, and is not imposed in the seventh Contract year and later. To the extent that this sales charge proves to be insufficient to recover all distribution expenses, the deficiency will be met from Investors' surplus, which may be, in part, derived from the mortality and expense risk charges. Investors do not anticipate that the continent deferred sales charges will generate sufficient funds to pay the cost of distributing the Contracts.

8. Investors proposes to assess a daily charge to compensate it for bearing certain mortality and expense risks in connection with the Contracts. This charge is equal to an effective annual rate of 1.25% of the value of the net assets in Separate Account D. Of that amount, approximately .85% is attributable to mortality risks, and approximately .40% is attributable to expense risks. Investors guarantees that the mortality and expense risk charge will never increase. If the mortality and expense risk charge is insufficient to cover actual costs and assumed risks, the loss will fall on Investors. Conversely, if the charge is more than sufficient to cover costs, any excess will be profit to Investors. Investors currently anticipates making a profit from this charge.

9. The mortality risk borne by Investors arises from its contractual obligation to make payments (determined in accordance with the tables and other provisions contained in the Contract) regardless of how long all annuitants or any individual annuitant may live. This undertaking assures that neither an annuitant's own longevity, nor an improvement in general life expectancy, will adversely affect the annuity payments that the annuitant

will received under the Contract. Investors also incurs a mortality risk in connection with its guarantee to pay a death benefit equal to the greater of the following: (a) The contract value or (b) the sum of all premiums paid less any prior withdrawals.

10. The expense risk assumed by Investors is the risk that Investors' actual administration costs will exceed the amount recovered through the administrative and contract maintenance charges.

11. Investors currently imposes no charge for the first fifteen transfers in a contract year, but imposes a $25 charge for each transfer thereafter. However, Investors reserves the right to impose the $25 charge after the fourth transfer in a contract year. Investors do not anticipate making any profit from this charge. No charges are currently made for federal, state, or local taxes, although Investors may deduct such taxes from Separate Account D in the future.

Applicants' Legal Analysis

1. Applicants request an exemption from sections 26(a)(2) and 27(c)(2) of the 1940 Act to the extent relief is necessary to permit the deduction under the Contracts of the mortality and expense risk charge from the assets of Separate Account D. Section 27(c)(2) of the 1940 Act prohibits any registered investment company issuing periodic payment plan certificates, and any depositor of or underwriter for such company, from selling any such certificate unless, among other things, the proceeds of all payments on such certificates (excluding sales load) are held by a qualified trustee or custodian under an indenture or agreement containing, in substance, the provisions required by section 26(a)(2) and 26(a)(3) for trust indentures of unit investment trusts. Among the provisions required to be included in such an indenture or agreement is the proviso in section 26(a)(2)(C) that permits the trustee or custodian to deduct from the assets of the trust as an expense only bookkeeping and other administrative services charges not exceeding such reasonable amount as the Commission may prescribe.

2. Applicants submit that Investors is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the charge of 1.25% under the Contracts made for mortality and expense risks is consistent with the protection of investors because it is a reasonable and proper insurance charge. The mortality and expense risk charge is a reasonable charge to compensate Investors for the risks that (a) annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts, (b) the Contract value will be less than the death benefit, and (c) administrative expenses will be greater than the amounts derived from the administrative charges.

3. Investors represents that the charge of 1.25% per annum for mortality and expense risks assumed under the Contracts is within the range of industry practice for comparable annuity products. This representation is based upon Investors' analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Investors will maintain at its home office, available to the Commission, a memorandum setting forth in detail the products analyzed in the xou4se of, an the methodology and results of, its comparative survey.

4. Applicants acknowledge that the contingent deferred sales charge may be insufficient to cover all costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed by the Commission as being offset by distribution expenses not reimbursed by the sales charge. Investors has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit Separate Account D and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by Investors at its home office and will be available to the Commission.

5. Investors also represents that Separate Account D will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees), a majority of who are not interested persons of the company, formulate and approve any plan under Rule 12b–1.

Conclusion

Applicants request exemptions from sections 26(a)(2) and 27(c)(2) to the extent necessary to permit them to deduct on a daily basis a charge equal to 1.25% annually of the assets of Separate Account D attributable to the Contracts for the assumption of mortality and expense risks described herein. For the reasons set forth above, Applicants believe that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22695 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19701; 812–8290]

John Hancock Asset Allocation Fund, et al.; Notice of Application

September 10, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: John Hancock Asset Allocation Fund, John Hancock Cash Management Fund, John Hancock Employer Trust, John Hancock Growth Fund, John Hancock Limited Term Government Fund, John Hancock Sovereign Bond Fund, John Hancock Sovereign Investors Fund, Inc., John Hancock Strategic Series, John Hancock Special Equities Fund, John Hancock Tax Exempt Income Fund, John Hancock Tax Exempt Series Fund, John Hancock Technology Series, Inc., John Hancock World Fund (the "Hancock Funds"), Freedom Investment Trust, Freedom Investment Trust II, Freedom Investment Trust III (the "Freedom Funds"), any existing or future series of the Hancock Funds and the Freedom Funds, John Hancock Advisers, Inc. (the "Adviser"), John Hancock Broker Distribution Services, Inc. ("Broker Services"), and Freedom Distributors Corporation (together with Broker Services, the "Co-Distributors").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 18(f)(1), 18(g), and 18(i) of the Act.

SUMMARY OF APPLICATION: Applicants seek an amendment to a prior order that permits applicants (a) to issue and sell three classes of shares representing interests in the same portfolios of securities, and (b) to assess a contingent deferred sales charge ("CDSC") on certain redemptions of the shares of one of the classes, and to waive the CDSC in certain cases (the "Prior Order").[1] The requested amendment would permit (a)

[1] Investment Company Act Release Nos. 18921 (Sept. 1, 1992) (notice) and 18984 (Sept. 29, 1992) (order).

the issuance of an unlimited number of classes of shares with different sales load and service and distribution fee structures, and (b) the imposition of certain additional class-related expenses on such classes. Applicants request that any relief granted pursuant to the application also apply to any registered investment company established or acquired in the future, including any series thereof, for which the Adviser or any affiliate controlling, controlled by, or under common control with the Adviser acts as investment adviser or distributor (together with the Hancock Funds and the Freedom Funds, the "Funds"). Any such future Funds will be subject to the representations and conditions set forth in the application.

FILING DATES: The application was filed on March 1, 1993, and amended on June 17, 1993. By supplemental letter dated September 8, 1993, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 5, 1993 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 101 Huntington Avenue, Boston, Massachusetts 02199–7603.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272–3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3922 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a Massachusetts business trust, with the exception of John Hancock Sovereign Investors Fund, Inc. and John Hancock Technology Series, Inc., which are Maryland corporations. The Funds are open-end management investment companies registered under the Act. The Adviser provides investment advisory and management services to the Funds. Broker Services acts as principal underwriter for the Hancock Funds. The Co-Distributors act as principal underwriters for the Freedom Funds.

2. Applicants seek to amend the Prior Order to permit the Funds (a) to issue an unlimited number of classes of shares (including the classes approved by the Prior Order); and (b) to differentiate among the classes (including the classes approved by the Prior Order) in the following respects: Any such class (i) may be subject to a rule 12b–1 plan and/or a non-rule 12b–1 shareholder services plan (a "Shareholder Services Plan") (such Shareholder Services Plan, together with a rule 12b–1 plan, the "Plans") and may make different payments pursuant to such Plans ("Plan Payments") (and any other costs relating to obtaining shareholder approval of a rule 12b–1 plan for such class, or an amendment to such plan); (ii) may bear different class expenses, as described below; (iii) may bear a different name or designation; (iv) may or may not have voting rights related to any Plan affecting a specific class of shares; (v) may have different exchange privileges; (vi) may have different conversion features; and (vii) may bear any other incremental expenses subsequently identified that should be properly allocated to such class which shall be approved by the Commission pursuant to an amended order (the "Multiple Class System"). Shares of different classes would be sold under different sales arrangements including, for example, with a front-end sales charge, subject to a CDSC, or at net asset value.[2]

3. Classes of a Fund may be subject to a rule 12–1 plan and/or a Shareholder Services Plan. Under a Shareholder Services Plan, the Fund (or a Co-Distributor) will enter into servicing agreements with affiliated and unaffiliated financial institutions, broker-dealers, and securities professionals ("Service Organizations") capable of providing support services to their customers for whom such Service Organizations beneficially own shares of the Funds offered pursuant to such a Plan. The provision of services under a Shareholder Services Plan will augment (and not be duplicative of) the services to be provided to a Fund by the Adviser, the Co-Distributors, the transfer agent, and by the party which provides custody and recordkeeping services to a Fund.

4. The Prior Order permits the Funds to issue and sell three classes of shares representing interests in the same portfolios of securities, and to assess a CDSC on certain redemptions. The Prior Order authorizes the Funds to offer shares with a front-end sales load and rule 12b–1 distribution and service fees ("Class A" shares); shares subject to a CDSC, a rule 12b–1 service fee, and a higher rule 12b–1 distribution fee ("Class B" shares); and shares sold without any rule 12b–1 distribution plan, CDSC, or front-end sales load ("Class C" shares). Class C shares may be offered to the following investors ("Institutional Investors"):

(a) Unaffiliated benefit plans, such as qualified retirement plans, other than individual retirement account and self-employed retirement plans, with total assets in excess of $10 million or such other amounts as the Funds may establish and with such other characteristics as the Funds may establish;

(b) Tax-exempt retirement plans of the Adviser and its affiliates, including the retirement plans of the Adviser's affiliated brokers;

(c) Unit investment trusts ("UITs") sponsored by Broker Services, and Freedom Principal Return Trust, a UIT sponsored by two indirect wholly owned subsidiaries of John Hancock Mutual Life Insurance Company;

(d) Banks and insurance companies purchasing for their own accounts;

(e) Investment companies not affiliated with the Adviser; and

(f) Endowment funds of non-profit organizations.

5. The Funds may, in the future, offer classes of shares in addition to Class A and Class B shares that are designed to meet the specific investment needs of non-institutional investors (together with Class A and Class B shares, "Non-Institutional Shares"). In addition to Class C shares, applicants may, in the future, offer other classes of shares with attributes designed to meet the specific investment needs of a particular category of Institutional Investor (together with Class C shares, "Institutional Shares"). Applicants also may offer classes of shares to institutions not included in the categories of Institutional Investors, such as corporations, foundations, and financial institutions, designed to meet

[2] Applicants state that the application filed in connection with the Prior Order is incorporated by reference in the present application, except to the extent that any of its representations and conditions are inconsistent with the representations and conditions of the present application.

the needs of such institutions ("Financial Shares").

6. Only Institutional Investors will be eligible to invest in Institutional Shares. All other investors will be eligible to invest solely in Class A, Class B, other Non-Institutional Shares, and/or Financial Shares. Applicants may choose not to make a particular class of Institutional Shares available to one or more categories of Institutional Investors. If no class of Institutional Shares is made available to a particular category of Institutional Investor, Institutional Investors in this category will be permitted to purchase Non-Institutional Shares and/or Financial Shares. However, no Institutional Investor that is eligible to invest in any class of Institutional Shares will be permitted by applicants to invest in any class of Non-Institutional Shares or Financial Shares. Accordingly, there will be no overlap between the investors eligible to invest in Institutional Shares and investors eligible to invest in Non-Institutional Shares and Financial Shares of a Fund or series thereof.

7. Each class of shares generally may be exchanged for shares of a class with similar characteristics in another Fund. Shares of any class of a Fund, including a class with a CDSC feature, may be exchanged for shares of certain money market funds that do not impose a CDSC and may not be subject to a Plan ("Money Market Exchange Shares"). For purposes of imposing any applicable CDSC on Money Market Exchange Shares (and applying any applicable conversion feature), the period during which the shareholder held the exchanged shares would be counted, except that a Fund may elect not to count the period during which the shareholder held the Money Market Exchange Shares. All such exchanges will be allowed only between Funds that are within the same "group of investment companies" as defined in rule 11a–3 under the Act. However, exchanges may, at the discretion of the Fund's trustees or directors (collectively, the "Trustees") be permitted among dissimilar classes should a shareholder cease to be eligible to purchase shares of the original class by reason of a change in the shareholder's status. All permitted exchanges will comply with rule 11a–3 under the Act.[3]

8. A conversion feature will automatically convert shares of one class (the "Purchase Class") to shares of another class with different features (the "Target Class") after the expiration of a specified period, subject to terms disclosed in a Fund's then-current prospectus. All conversions will be done at net asset value without the imposition of any sales load, fee, or other charge, so that the value of each shareholder's account immediately before conversion will be the same as the value of the account immediately after conversion. After conversion, the Target Class will be subject to an asset-based sales charge and/or service fee, if any, that in the aggregate are lower than the asset-based sales charge and service fee to which Purchase Class were subject prior to the conversion.

9. For purposes of the conversion, all Purchase Class shares in a shareholder's account that were acquired through the reinvestment of dividends and other distributions paid in respect of such shares (and which had not yet converted) will be considered to be held in a separate sub-account ("Dividend Purchase Shares"). Each time any Purchase Class shares in the shareholder's account converted, an equal portion of Dividend Purchase Shares then in the sub-account will also convert and will no longer be considered held in the sub-account. The portion will be determined by the ratio that the shareholder's converting Purchase Class shares bears to the shareholder's total Purchase Class shares subject to the conversion feature but excluding Dividend Purchase Shares.

10. Any conversion will be subject to the continuing availability of an opinion of counsel or a private letter ruling from the Internal Revenue Service to the effect that the conversion did not constitute a taxable event under federal income tax law. Conversion might be suspended if such an opinion or ruling were no longer available.

11. Under the Multiple Class System, certain expenses may be attributable to a Fund, but not to a particular series thereof. All such expenses will be borne by each class on the basis of the relative aggregate net assets of the classes, except in the case of a Fund that has series, in which case they will first be allocated among series, based on the relative aggregate net assets of such series, and then borne on that basis by each series without regard to class. Expenses that are attributable to a particular series, but not to a particular class thereof, will be borne by each class on the basis of the relative aggregate net assets of the classes.

12. A class of shares may be permitted to bear expenses that are directly attributable to such class ("Class Expenses"). In addition to Plan Payments, Class Expenses may include any or all of the following expenses:

(a) Transfer agency fees (including the incremental cost of monitoring the CDSC) attributable to a specific class of shares;

(b) Printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxy statements to current shareholders of a specific class;

(c) Commission registration fees incurred by a specific class;

(d) Administrative personnel and services required to support the shareholders of a specific class (including, but not limited to, maintaining telephone lines and personnel to answer shareholders' inquiries about their accounts or about the Funds);

(e) Litigation or other legal expenses relating to a specific class of shares;

(f) Trustee fees or expenses incurred as a result of issues relating to a specific class; and

(g) Accounting expenses relating to a specific class.

13. Because of the Plan Payments and Class Expenses that may be borne by each class, the net income attributable to and the dividends payable on each class may be different from the net income attributable to and the dividends payable on the other classes. Dividends paid to each class will, however, be declared and paid on the same days and at the same times and, except as noted with respect to the Plan Payments and Class Expenses, will be determined in the same manner and will be paid in the same amount. Except for those Funds or series which are money market funds (which maintain a constant net asset value per share) the net asset value per share of the classes will vary.

Applicants' Legal Analysis

1. Applicants request an amendment to the Prior Order exempting them from the provisions of sections 18(f)(1), 18(g), and 18(i) of the Act to the extent that the proposed issuance and sale of an unlimited number of classes of shares representing interests in the Funds might be deemed to result in a "senior security" within the meaning of section 18(g); to be prohibited by section 18(f)(1); and to violate the equal voting provisions of section 18(i).

[3] Applicants do not intend, upon initial implementation of the Multiple Class System with respect to any Fund, to offer to Class A or Class B shareholders who become eligible to purchase Class C shares the privilege of exchanging their existing Class A or Class B shares for Class C shares. After implementation of the Multiple Class System, such shareholders will not be permitted to purchase any additional Class A or Class B Shares (except through the reinvestment of dividends and distributions).

2. Applicants assert that the number of classes authorized in the Prior Order may not adequately address the variety of marketing situations and investor needs that the Funds will face in an increasingly competitive marketplace. Applicants state that it would be desirable for the Funds to have the authority to issue an unlimited number of classes of shares to address these situations and needs as they develop, thus remaining competitive.

3. Applicants assert that the proposed Multiple Class System does not create the potential for the abuses that section 18 of the Act was designed to redress. The Multiple Class System will not increase the speculative character of the shares of the Funds. The Multiple Class System does not involve borrowings, will not affect the Funds' existing assets or reserves, and does not involve a complex capital structure.

4. Applicants state that the proposed allocation of Class Expenses and voting rights in the manner described is equitable and would not discriminate against any group of shareholders. Investors purchasing shares offered in connection with a Plan and receiving services provided under such Plan would bear costs associated with such services, and would receive the added benefits of economies of scale and portfolio management advantages that may result from combining retail and institutional investors' assets in a single, larger portfolio. Conversely, investors purchasing shares that would not be covered by a Plan would not be burdened with such expenses and, in addition, would have no need for voting rights with respect to a rule 12b–1 plan. These investors, similarly, would benefit from economies of scale and portfolio management advantages.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of a Fund or a series, and be identical in all respects, except as set forth below. The only differences among the classes of share of the same Fund or series will relate solely to:

(a) The method of financing certain Class Expenses, which may include any or all of the following expenses determined by the trustees to be attributable to a specific class of shares: (i) Transfer agency fees (including the incremental cost of monitoring the CDSC) attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxy statements to current shareholders of a specific class; (iii) Commission registration fees incurred by a specific class; (iv) the expense of administrative personnel and services required to support the shareholders of a specific class; (v) litigation or other legal expenses relating to a specific class of shares; (vi) Trustee fees or expenses incurred as a result of issues relating to a specific class; and (vii) accounting expenses relating to a specific class;

(b) Expenses payable by a class pursuant to a Plan with respect to such class;

(c) The voting rights related to any Plan affecting a specific class of shares;

(d) Conversion features;

(e) Exchange privileges; and

(f) Class designations. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly applied to one class of shares shall not be so applied unless and until approved by the Commission.

2. The Trustees of the Funds, including a majority of the non-interested Trustees, will approve the Multiple Class System. The minutes of the meetings of the Trustees of the Funds regarding the deliberation of the Trustees concerning, and their approval of, the Multiple Class System will reflect in detail the reasons for the Trustees' determination that the proposed Multiple Class System is in the best interests of both the Funds and their respective shareholders.

3. The initial determination of Class Expenses that will be applied to a class and any subsequent changes thereto will be reviewed and approved by a vote of the Board of Trustees, including a majority of the non-interested Trustees. Any persons authorized to direct the application and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the Board of Trustees, and the Trustees shall review at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. Any distributor will adopt compliance standards as to when each class of shares may be sold to particular investors. Applicants will require all persons selling shares of the Funds to conform to such standards. Such compliance standards will require that all investors eligible to purchase Institutional Shares will be sold only Institutional Shares, and all investors eligible to purchase Non-Institutional Shares or Financial Shares will be sold only Non-Institutional Shares or Financial Shares.

5. The Shareholder Services Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

6. On an ongoing basis, the Trustees of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts among the interests of the classes of shares. The Trustees, including a majority of the non-interested Trustees, will take such action as is reasonably necessary to eliminate any such conflicts that may develop. The adviser and the distributor will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the adviser or the distributor, each at its own cost, will remedy such conflict up to and including establishing a new registered management investment company.

7. The Trustees will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as amended from time to time. In these statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the non-interested Trustees in the exercise of their fiduciary duties.

8. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charges and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

9. If a Fund implements any amendment to its rule 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a Shareholder Services Plan) that would increase materially the amount that may

be borne by the shares of a Target Class under the plan, existing Purchase Class shares will stop converting into the Target Class unless the Purchase Class shareholders, voting separately as a class, approve the proposal. The Trustees shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to the Target Class as it existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into the Target Class. If deemed advisable by the Trustees to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class will convert into New Target Class. New Target Class or New Purchase Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the Trustees reasonably believe will not be subject to federal taxation. In accordance with condition 6 any additional cost associated with the creation, exchange, or conversion of New Target Class or New Purchase Class shall be borne solely by the adviser and the distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

10. Dividends paid by a Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be paid in the same amount, except that Plan Payments and any Class Expenses will be borne exclusively by that class.

11. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes of shares and the proper allocation of expenses among the classes have been reviewed by an expert (the "Expert"). The Expert has rendered a report to the applicants filed with the application as Exhibit C that such methodology and procedures are adequate to ensure that such calculations and applications will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and applications are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and applications are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following a request by the Funds (which the Funds agree to provide), will be available for inspection by the Commission's staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the Commission limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" as defined and described in SAS No. 44 of the AICPA, and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

12. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of shares and the proper allocation of expenses among the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 11 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 11 above. Applicants agree to take immediate corrective action if this representation is not concurred in by the Expert or appropriate substitute Expert.

13. The prospectuses of each Fund will include a statement to the effect that any person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

14. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Funds with respect to the Multiple Class System will be set forth in guidelines which will be furnished to the Trustees.

15. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares other than Institutional Shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Institutional Shares will be offered solely pursuant to a separate prospectus. The prospectus for Institutional Shares will disclose the existence of the Fund's other classes, and the prospectus for the Fund's other classes will disclose the existence of Institutional Shares and will identify the persons eligible to purchase Institutional Shares. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares, except Institutional Shares. Advertising materials reflecting the expenses or performance data for Institutional Shares will be available only to those persons eligible to purchase Institutional Shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares, except Institutional Shares, separately.

16. Applicants acknowledge that the grant of the amendment to the Prior Order requested by the application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to the rule 12b–1 plans or Shareholder Services Plans in reliance on the exemptive order.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22697 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19703; File No. 812–8480]

Pacific Mutual Life Insurance Company, et al.

September 10, 1993.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Pacific Mutual Life Insurance Company ("Pacific Mutual"), PFAMCo Variable Annuity Separate Account (the "Separate Account"), and Pacific Equities Network ("PEN") (collectively referred to herein as "Applicants").

RELEVANT 1940 ACT SECTION: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction from the assets of the Separate Account of the mortality and expense risk charges imposed under certain individual flexible premium deferred variable annuity contracts (the "Contracts").

FILING DATE: The application was filed on June 30, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on October 5, 1993, and should be accompanied by a proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Sharon A. Cheever, Pacific Mutual Life Insurance Company and Pacific Equities Network, 700 Newport Center Drive, Newport Beach, California 92660.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney, or Michael V. Wible, Special Counsel, on (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicant's Representations

1. Pacific Mutual is a mutual life insurance company organized under the laws of the State of California. It was authorized to conduct business as a life insurance company on January 2, 1868, as Pacific Mutual Life Insurance Company of California, and was reincorporated under its present name on July 22, 1936.

2. The Separate Account was established by Pacific Mutual on June 28, 1993. The Separate Account is currently divided into eleven sub-accounts (the "Variable Accounts"). Each Variable Account will invest exclusively in shares of a corresponding variable portfolio of PFAMCo Funds (the "Fund"). Pacific Financial Asset Management Corporation ("PFAMCo") serves as Investment Adviser to the Fund.

3. PEN will be the principal underwriter of the Contracts. PEN is a wholly-owned subsidiary of Pacific Financial Holding Company, which is a wholly-owned subsidiary of Pacific Mutual.

4. The Contracts are available for purchase as non-tax qualified retirement plans by individuals. The Contracts are also eligible for use in connection with tax qualified retirement plans that meet the requirements of Sections 401 and 408 of the Internal Revenue Code of 1986, as amended (the "Code"). The Contracts are not available for use in connection with tax qualified retirement plans under Section 403(b) unless otherwise approved by Pacific Mutual. The minimum initial premium for the purchase of a Contract is $25,000. Thereafter, the Contract Owner may choose the amount and frequency of premium payments, except that the minimum subsequent premium is $5,000. Pacific Mutual may reduce the minimum premium requirements under certain circumstances, such as for group or sponsored arrangements.

5. If the annuitant dies during the accumulation period, Pacific Mutual will pay a death benefit to the beneficiary. The death benefit under the Contract is equal to the accumulated value as of the end of the valuation period in which due proof of death and instructions regarding payment are received at their Variable Annuity Center.

6. There is no sales charge, contingent deferred sales charge, or surrender charge under the Contract.

7. Pacific Mutual deducts a monthly administrative charge equal to .000125 multiplied by a Contract's accumulated value, which will be deducted monthly during the accumulation period, beginning on the monthly anniversary following the contract date, during the accumulation period. This charge is equivalent to an annual rate of 0.15% of a Contract's accumulated value. The purpose of this charge is to reimburse Pacific Mutual for the expenses associated with administration of the Contracts and operation of the Separate Account. Pacific Mutual does not expect to profit from this charge.

8. During the accumulation period, an annual fee of $30, will be deducted at the end of each contract anniversary to cover the costs of maintaining records for the Contracts. The fee will be assessed to each Account in proportion to the Contract's accumulated value in each Variable Account. Upon annuitization or a full withdrawal, the charge will be pro-rated for the portion of the contract year during which the Contract was in force. This charge is currently waived on Contracts for which the initial premium is $100,000 or more, although Pacific Mutual reserves the right to impose the charge on such Contracts in the future. Pacific Mutual does not expect to profit from this charge.

9. Pacific Mutual assesses a premium tax charge to reimburse itself for premium taxes that it incurs on behalf of the Contract Owner. This charge usually will be deducted upon annuitization or upon full withdrawal if premium taxes are incurred and are not refundable. Partial withdrawals, including scheduled withdrawals, may be subject to a premium tax charge if a premium tax is incurred on the withdrawal by Pacific Mutual and is not refundable. Pacific Mutual reserves the right to deduct premium taxes when due.

10. Pacific Mutual may charge the Variable Accounts or deduct from accumulated value or premiums amounts for federal, state, or local income taxes incurred by Pacific Mutual that are attributable to the Separate Account and its Variable Accounts, or to the operations of Pacific Mutual with respect to the Contracts, or that are attributable to payment of premiums or acquisition costs under the Contracts. No such charge is currently assessed.

11. Pacific Mutual may reduce or waive the amount of the administrative charge and contract maintenance fee for a Contract where the expenses associated with the administrative and maintenance costs of the Contract are reduced for reasons such as the amount of initial premium payment, the amounts of projected premium

payments, or that the Contract is sold in connection with a group or sponsored arrangement. Pacific Mutual may also reduce or waive the administrative charge and maintenance fee on Contracts sold to the directors or employees of Pacific Mutual or any of its affiliates or to trustees of the Fund. Pacific Mutual will only reduce or waive such charges and fees where the costs associated with administering and maintaining the Contract are reduced.

12. Pacific Mutual will deduct a daily charge from the assets of each Variable Account for mortality and expense risks assumed by Pacific Mutual under the Contracts. The charge is equal to an annual rate of 1.25% of the average daily net assets of each Variable Account. This amount is intended to compensate Pacific Mutual for certain mortality and expense risks Pacific Mutual assumes in offering and administering the Contracts and in operating the Separate Account. The 1.25% charge consists of approximately 0.35% for expense risk and 0.90% for mortality risk.

13. Applicants state that the expense risk under the contract is the risk that Pacific Mutual's actual expenses in issuing and administering the Contracts and operating the Variable Accounts will be more than the charges assessed for such expenses. Applicants also state that the mortality risk borne by Pacific Mutual is the risk that the persons on whose life annuity payments depend (each an "Annuitant"), as a group, will live longer than Pacific Mutual's actuarial tables predict.

14. Applicants submit that if the asset charge proves to be insufficient to cover the actual cost of the mortality and expense risk undertakings, Pacific Mutual will bear the loss. Conversely, if the deduction is more than sufficient, Pacific Mutual will realize a profit that will be available for any proper corporate purpose. Applicants submit that although Pacific Mutual may ultimately realize a profit from the charge to the extent it is not needed to meet the actual expenses incurred, the aggregate charge is guaranteed and will never be increased.

15. Pacific Mutual guarantees that the charge for mortality and expense risks will not increase, that the maintenance fee shall not exceed $30, and the administrative charge shall not exceed an annual rate of 0.15% of a Contract Owner's Accumulated Value. Applicants represent that Pacific Mutual also guarantees that annuity payments will not be affected by a change in mortality experience that results in the payment of greater annuity income than assumed under the annuity options in the Contract.

Applicants' Legal Analysis

1. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act requires that all payments received under a periodic payment plan certificate be held by a qualified trustee or a custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services.

2. Pacific Mutual asserts that it is entitled to reasonable compensation for its assumption of mortality and expense risks, and Applicants represent that the level of the mortality and expense risk charge imposed is within the range of industry practice for comparable annuity products. Applicants state that this representation is based upon their analysis of publicly available information regarding comparable contracts of other companies, taking into consideration the particular annuity features of the comparable contracts, including such factors as: annuity purchase options and rate guarantees, other contract charges, the frequency of charges, the administrative services performed by the companies with respect to the contracts, the distribution methods, the market for the contracts, investment options under the contracts, and the tax status of the contracts. Applicants represent that they will maintain at their Variable Annuity Center, and make available to the Commission, a memorandum setting forth in detail the comparable variable annuity products analyzed and the methodology, and results of, Applicants' comparative review.

3. According to the Applicants, costs related to the distribution of the Contracts will be paid from Pacific Mutual's General Account assets, which may include any ultimate profit derived from the mortality and expense risk charge imposed. In such circumstances, a portion of the mortality and expense risk charge imposed might be viewed as providing for a portion of the costs relating to distribution of the Contracts. Notwithstanding the foregoing, Pacific Mutual has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Separate Account and the Contract Owners. Among other things, Pacific Mutual has taken into consideration that the no sales load is imposed with respect to the Contracts. The basis for Pacific Mutual's conclusion is set forth in a memorandum which will be maintained by Pacific Mutual in its Variable Annuity Center and will be available to the Commission.

4. Pacific Mutual represents that if the Separate Account invests in any open-end management investment companies that have adopted a plan under Rule 12b–1 under the 1940 Act, the Separate Account will invest only in such companies that have undertaken to have such plans formulated and approved by the particular company's board of directors, a majority of the members of which will not be "interested persons" of such company within the meaning of section 2(a)(19) of the 1940 Act.

Conclusion

Applicants submit that for all the reasons and upon the facts set forth above, their request for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22696 Filed 9–16–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before October 18, 1993. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3d Street, SW., 5th Floor, Washington, DC 20416. Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Training Workshop Evaluation

Form No.: 1591

Frequency: On Occasion

Description of Respondents: Clients Attending Workshops

Annual Responses: 40,000

Annual Burden: 10,000.

Dated: September 10, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–22684 Filed 9–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000090]

KOKO Capital Co., L.P.; Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1990)) by KOKO Capital Company, L.P., 116 Radio Circle, Mt. Kisco, New York 10549, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and partners of the Applicant will be as follows:

Name	Title or position	Percent of ownership
General Partner:		
Kisco Capital Corporation, 116 Radio Circle, Mt. Kisco, New York 10549.	General Partner	1.00
James A. Kohlberg, 158 Mills Road, Purdy's, New York 10578.	President/Director, Owner of Kisco Capital Corporation (The Corporate General Partner).	100.00
Walter W. Farley, 122 Buckingham Road, Upper Montclair, New Jersey 07043.	Vice President/Director	0
Limited Partner:		
Jerome Kohlberg, Jr., Crow Hill Road, Mt. Kisco, New York 10549.	Limited Partner	99.00

Jerome Kohlberg, Jr., will own 100 percent of the Limited Partnership interest.

The Applicant, a Delaware limited partnership, is expected to begin operations with $5,000,000 of private capital and will be a source of equity capital and long-term loan funds for qualified small business concerns. The Applicant intends to conduct its business activities in the State of New York, primarily in the Northeast and Middle Atlantic sections of the United States, and thereafter, throughout the United States.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the existing company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in New York State and Delaware.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 8, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–22683 Filed 9–16–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 93–65; Notice 1]

Receipt of Petition for Determination That Nonconforming 1969 Volkswagen 119 "Beetle" Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1969 Volkswagen 119 "Beetle" passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1969 Volkswagen 119 "Beetle" that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is October 18, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and

after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 (of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

Champagne Imports, Inc. of Landsdale, Pennsylvania (Registered Importer No. R–90–009), has petitioned NHTSA to determine whether 1969 Volkswagen 119 "Beetle" passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1969 Volkswagen 119 "Beetle" that was manufactured for importation into and sale in the United States and certified by its manufacturer, Volkswagenwerk A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner stated that it carefully compared the non-U.S. certified version of the 1969 Volkswagen 119 "Beetle" to its U.S. certified counterpart, and found that the two vehicles are substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1969 Volkswagen 119 "Beetle", as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1969 Volkswagen 119 "Beetle" is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 101 *Controls and Displays*, 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, and 212 *Windshield Mounting*.

Petitioner also contends that the non-U.S. certified Volkswagen 119 "Beetle" is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of either a U.S.-model seat belt in the driver's position or a belt webbing-actuated microswitch in the driver's seat belt retractor to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3) (A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 10, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–22799 Filed 9–16–93; 8:45 am]

BILLING CODE 4910–59–M

Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice amends the Model Specifications for evidential breath testing devices published in 1984 and updates the list of conforming products. Recent trends indicate that the states are lowering the alcohol levels that indicate drunk driving (e.g., "zero tolerance" laws for underage offenders) Moreover, these specifications address comments received in response to a Department of Transportation Notice of Proposed Rulemaking published in the Federal Register on December 15, 1992 (57 FR 59382). The Model Specifications and the Conforming Products List set forth below reflect new lower evaluation thresholds for devices to measure breath alcohol, to better reflect the range of critical measurements during actual use.

DATES: This notice becomes effective October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Mayer, Office of Alcohol and State Programs, NTS–21, National Highway Traffic Safety Administrator, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–9825.

SUPPLEMENTARY INFORMATION: On December 14, 1984 (49 FR 48854), the National Highway Traffic Safety Administration (NHTSA) issued a notice converting the mandatory standards for breath alcohol test devices (38 FR 30459) to Model Specifications for such devices. The Notice indicated that the Agency would continue to test evidential breath testers (EBTs) and would release its findings to provide States which choose not to conduct their own testing with adequate information upon which to base their purchasing decisions.

Since publication of the Model Specifications in 1984 (49 FR 48855), States have been moving toward a lowering of alcohol levels which indicate drunk driving and enacting new laws targeting youthful offenders (i.e., "zero tolerance" laws).

On December 15, 1992, the U.S. Department of Transportation (DOT) published Notices of Proposed Rulemaking (NPRMs) proposing rules to implement the "Omnibus Transportation Employee Testing Act of 1991," which requires alcohol testing programs in aviation, motor carrier, rail, and mass transit industries in the interest of public safety. The Research and Special Programs Administration (RSPA) has proposed similar regulations for the pipeline industry. In general, the proposed rules would prohibit covered employees from performing safety-sensitive functions when test results indicate a breath alcohol concentration (BAC) of 0.04 or greater. Slightly different consequences would apply with respect to an employee having a BAC of 0.02 or greater but less than 0.04. If the NPRMs are adopted as final rules, transportation workers in safety-sensitive positions will be tested at lower alcohol (commercial motor vehicle drivers are already subject to DWI standards at ≥0.04).

DOT received comments in response to the rulemaking actions recommending that if NHTSA's Model Specifications are to be used for the transportation workplace alcohol testing programs, then the Model Specifications should be consistent with the requirements of the rules.

In light of the trend toward lowering alcohol levels and to address the comments received in response to DOT's NPRMs, NHTSA has decided to revise its Model Specifications by lowering the BACs at which instruments are evaluated.

Under the earlier specifications, EBTs were evaluated for precision and accuracy at 0.000, 0.050, 0.101, and 0.151 BAC, and tests for operation of the devices at various conditions of operation were performed at 0.101 BAC. The Specifications below establish evaluations for precision and accuracy at 0.000, 0.202, 0.040, 0.080, and 0.160 BAC, and evaluations at various conditions of operation at 0.080. Tests for acetone interference will also be conducted at 0.020 BAC. NHTSA is also expanding its definition of alcohol to better reflect State laws and the capabilities of testing devices.

These revisions will assist the States and local communities by providing a centralized qualification test program for breath-testing devices designed to collect evidence in law enforcement programs. The Model Specifications are not intended to replace the current qualification programs required in certain States for this equipment or to directly regulate the manufacture of EBTs. However, some States may wish to make use of this program in addition to setting their own requirements. While the agency is not imposing these Model Specifications on State and local governments, NHTSA encourages each State to consider adopting them.

Procedures

Testing of EBTs submitted by manufacturers to these Model Specifications will continue to be conducted by the DOT Volpe National Transportation Systems Center (VNTSC). Procedures for submitting instruments for evaluation have not changed. Tests will continue to be conducted semi-annually or as necessary. Manufacturers wishing to submit EBTs for testing must apply to NHTSA for a test date (Office of Alcohol and State Programs (OASP), NTS-21, NHTSA, 400 Seventh Street SW., Washington, DC 20590). Normally, at least 30 days will be required from the date of notification until the test can be scheduled. One week prior to the scheduled initiation of the test program, the manufacturer will deliver the device to be tested to VNTSC, DTS 75, Kendall Square, Cambridge MA 02142. The manufacturer shall be responsible for ensuring that its device is operating properly and is in proper calibration. If the manufacturer wishes to submit a duplicate, backup instrument, it may do so. The Operator's Manual and the Maintenance Manual will be delivered with the EBT, to VNTSC, with specifications and drawings which fully describe the device. Proprietary information will be respected. (See 49 CFR part 512, regarding the procedure by which NHTSA will consider claims of confidentiality.)

The manufacturer will have the right to check the EBT between arrival in Cambridge and the start of the test and to ensure that the EBT is in proper calibration, but will have no access to it during the tests. Any malfunction of the EBT which results in failure to complete any of the tests satisfactorily will result in a finding that it does not conform to the Model Specifications. If the EBT fails to conform, it may be resubmitted for testing.

On the basis of these results, NHTSA will continue to periodically publish a Conforming Products List (CPL), identifying the EBTs that meet the performance criteria set forth in these Model Specifications.

In anticipation of the publication of this notice and DOT's final rules to implement the Omnibus Transportation Employee Testing Act of 1991, NHTSA invited manufacturers currently known to produce EBTs to submit their instruments for evaluation utilizing these amended specifications. Instruments provided by the manufacturers have been evaluated under these Model Specifications, and this notice includes, as Appendix A, a revised CPL. This CPL identifies those instruments found to conform with the Model Specifications, as amended by this notice. It also identifies those instruments that meet the Model Specifications detailed in 49 FR 48854 (December 14, 1984).

Retesting of instruments will continue to be conducted when necessary. NHTSA intends to modify and improve these Model Specifications as new data and improved test procedures become available. (The test procedures may be altered in specific instances, if necessary, to meet unique design features of an EBT.) If these Model Specifications are modified, notification will be provided in the **Federal Register**. If NHTSA determines that retesting to the modified specification is necessary, a manufacturer whose equipment is listed on the CPL will be notified to resubmit the equipment for testing to the modified specification only. Also, if at any time a manufacturer wishes to change the design of an EBT currently on the CPL, the manufacturer shall submit the proposed changes to OASP for review. Based on this review, a determination will be made regarding whether retesting is required. Guidance to manufacturers on considerations governing this decision is given in Appendix B.

OASP will continue to be the point of contact for information about acceptance testing and field performance of equipment already on the list. When it is available, NHTSA requests that the State and local agencies provide both acceptance and field performance data to OASP. Information from users will be used to: (1) Help NHTSA determine whether EBTs continue to perform according to the NHTSA Model Specifications and (2) ensure that field use does not indicate excessive breakdown or maintenance problems.

If information gathered indicates that an instrument on the CPL is not performing in accordance with the Model Specifications, NHTSA will direct VNTSC to conduct a special investigation. This study may include visits to users and additional tests of the instrument obtained from the open

market. If the investigation indicates that the instruments actually sold on the market are not meeting the Model Specifications, then the manufacturers will be notified that the instrument may be dropped from the list. In this event the manufacturer shall have 30 days from the date of notification to reply. Based on the VNTSC investigation and any data provided by the manufacturer, NHTSA will decide whether the instrument should remain on the list. Upon resubmission, the manufacturer must submit a statement describing what has been done to overcome the problems which led to the dropping of the instrument in question from the list.

This notice addresses comments received by DOT in response to its NPRMs on The Omnibus Transportation Employee Testing Act of 1991 published in the **Federal Register** on December 15, 1992. The changes to the Model Specifications for evidential breath testers contained in this notice become effective on the date noted above. If any person believes NHTSA should reconsider the changes made in this notice, that person may submit a petition for reconsideration. The petition shall be submitted to the Administrator, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted. The petition must be received by the date noted above and contain a brief statement of the basis for the petition. The statement may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15 page limit. The filing of a petition will not stay the effective date of this notice.

In accordance with the foregoing, the Model Specifications for performance testing of EBTs are set forth below.

Authority: 23 U.S.C. 402, 403, 408, 410; delegations of authority at 49 CFR 1.50 and 501.

Michael B. Brownlee,

Associate Administrator for TSP.

Model Specifications for Evidential Breath Testers

1. Purpose and Scope

These specifications establish performance criteria and methods for testing of evidential breath testers (EBTs). EBTs measure the alcohol content of deep lung breath samples with sufficient accuracy for evidential purposes. These specifications are intended primarily for use in the conformance testing of EBTs.

2. Classification

2.1 Mobility

2.1.1 Mobile Evidential Breath Testers

EBTs that are designed to be transported to non-fixed operational sites in the field.

2.1.2 Nonmobile Evidential Breath Testers

ETBs that are designed to be operated at a fixed location.

2.2 Power Source

2.2.1 Battery Powered Evidential Breath Testers

ETBs that are powered by batteries.

2.2.2 AC Powered Evidential Breath Testers

ETBs that are powered from the AC power lines.

3. Definitions

3.1 Alcohol—The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

3.2 BAC, BrAC—Blood alcohol concentration: grams of alcohol per 100 milliliters blood or grams of alcohol per 210 liters of breath in accordance with the Uniform Vehicle Code, Section 11–903(a)(5).[1] BrAC is often used to indicate that the measurement is a breath measurement. In these Model Specifications, concentration units of test samples are referred to as BAC units and are grams of alcohol per 210 liters of air.

3.3 Conformance Tests

Tests performed to check the compliance of a product with these specifications.

3.4 Standard Deviation

An indication of measurement precision of the EBT in a test, expressed as follows:

$$\text{Standard deviation}=[\text{Sum}\ (X_i-X_m)^2/(N-1)]^{1/2}$$

where X_i=a single measurement result
X_m=the average of the measurements
N=the number of measurements made in the test.

3.5 Systematic Error

An indication of the accuracy of the ETB in a test.

$$\text{Systematic error}=[(X_m-\text{test BAC})/\text{test BAC}]\ 100$$

3.6 Calibrating Unit (CU)

A device that produces an alcohol-in-air test sample of known concentration that meets the Model Specifications for Calibrating Units (49 FR 48865).

3.7 BASS

Breath Alcohol Sample Simulator. A device which provides an alcohol-in-air test sample with known and adjustable alcohol concentration profile, flow rate, and air composition at 34° centigrade. (See NBS Special Publication 480–41, July 1981[2] for a description of a BASS unit suitable for use in Test 4.)

4. Test Methods and Requirements

Each of the tests below requires 10 measurements to three decimal places made at 0.080 BAC or other specified BAC using the ETB being evaluated. Procedures specified by the manufacturer will be followed. Unless otherwise specified, the tests will be performed in the absence of drafts and at prevailing normal laboratory temperature, humidity, and barometric pressure. Ethyl alcohol will be used to prepare the test samples in this Model Specifications. A CU of the type which uses aqueous alcohol solutions thermostated at 34° C and a ratio of headspace concentration to liquid concentration of 0.000393 (see 49 FR 48865) will be used to provide the BAC samples. The CU shall be capable of delivering 10 complete vapor samples with alcohol depletion of not more than 1%. Human breath will be used to drive the CU. (For Test 4, the BASS device will be used.) Performance requirements are indicated in square brackets. [SE=systematic error, SD=standard deviation].

4.1 Test 1 Precision and Accuracy.

Test at each specified BAC.

Test 1.1: 0.020 BAC [SE≤ ±0.005 BAC; SD≤0.0042]

Test 1.2: 0.040 BAC [SE≤ ±0.005 BAC; SD≤0.0042]

Test 1.3: 0.080 BAC [SE≤ ±0.005 BAC; SD≤0.0042]

Test 1.4: 0.160 BAC [SE≤ ±0.008 BAC; SD≤0.0042]

The following test is information for potential users only.

There is no performance requirement.

Test 1.5: 0.300 BAC.

4.2 Test 2. Acetone Interference.

Test at 0.020 BAC with the specified amount of acetone added to the CU solution.[3] Replace the solution if acetone depletion is indicated during the test. [SE≤ ±0.005 BAC; SD≤0.0042]

Test 2.1: 70 microliters acetone per 500 ml solution.

Test 2.2: 115 microliters acetone per 500 ml solution.

4.3 Test 3. Blank Reading.

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[1] Available from National Committee on Uniform Traffic Laws and Ordinances, 405 Church Street, Evanston, IL 60201.

[2] Available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[3] The amounts of acetone have been specified on the basis of an experimentally determined water to air partition factor of 365 to 1 at 34° C to yield a sample of acetone in air at concentrations of 0.3 mg/l and 0.5 mg/l.

Test at 0.000 BAC. The tester shall use his or her own breath for this test and he or she may not consume alcohol for a period of 48 hours prior to this test or smoke for a period of 20 minutes prior to this test. The tester shall verify that the volume of each breath sample delivered is at least two liters. [SE≤ ±0.005 BAC with no single result greater than 0.005 BAC].

4.4 Test 4. Breath Sampling (Alternate test in Appendix C may be used).

Prepare the BASS solutions so that the BAC of each of the three segments of the simulated breath sample increases from 0.048, to 0.072, to 0.080. Use compressed breathing air to drive the samples. If the EBT is sensitive to carbon dioxide at concentrations found in human breath (5%), the driver gas will contain this gas at that concentration. Use a spirometer to measure sample volumes and, if necessary, place the EBT in a glove box to make that measurement. Perform three tests at each of the following volume-time combinations [SE≤ ±0.005 BAC; SD≤0.0042]

	Volume of each segment (liters)	Time of each segment (seconds)
Test 4.1	0.67	3.3
Test 4.2	0.67	2
Test 4.3	2	4

4.5 Test 5. Input Power.

If the EBT is powered by nominal voltages of 120 volts AC or 12 volts DC, condition the device for one half hour at the appropriate input voltage specified below, then test at that voltage. Monitor the input power with a voltmeter accurate to ±2% of full scale in the range used and readjust the voltage, if necessary. [SE≤ ±0.005 BAC; SD≤0.0042]

Test 5.1: 108 VAC
Test 5.2: 123 VAC
Test 5.3: 11 VDC
Test 5.4: 15 VDC.

4.6 Test 6. Ambient Temperature.

Use a temperature chamber controllable to ±1°C. Soak the EBT at the specified temperature for 1 hour before each test, then test at that temperature [SE≤ ±0.005 BAC; SD≤0.0042].

Test 6.1: 20°C
Test 6.2: 30°C

The following portion of Test 6 is applicable to hand held EBTs and is for information to potential users only. Soak hand-held EBT at specified temperature for one hour before each test, then test at that temperature. Operate the CU outside of the temperature chamber, if necessary, to ensure that it remains at normal operating temperature. There is no performance requirement.

Test 6.3: 10°C
Test 6.4:35°C

4.7 Test 7. Vibration Stability.

Use a programmable shake table with sufficient power to drive the weight of the EBT to be tested. Through each of its three major axes, subject the EBT to simple harmonic motion of the specified amplitude and frequency. Sweep through each frequency range in 2.5 minutes, then reverse sweep to the starting frequency in 2.5 minutes. After vibration, test the EBT. [SE≤ ±0.005 BAC; SD≤0.0042]

Frequency range (Hertz)	Amplitude (inches, peak to peak)
10 to 30	.030
30 to 60	.015

4.8 Test 8.

Electrical Safety Inspection. Examine the EBT for protection of the operator and person being tested from electrical shock. Examine for proper use of input power fuses, and verify that there are no exposed male connectors or conducting surfaces at high potential. Determine that overheating does not occur during operation and that fire hazards do not exist.

Appendix A—Conforming Products List of Evidential Breath Measurement Devices

Manufacturer and model	Mobile	Nonmobile
Alcohol Countermeasures System, Inc., Port Huron, MI:		
Alert J3AD*	X	X
BAC Systems, Inc., Ontario, Canada:		
Breath Analysis Computer*	----------	X
CAMEC Ltd., North Shields, Tyne and Ware, England:		
IR Breath Analyzer*	X	X
CMI, Inc., Owensboro, KY:		
Intoxilyzer Model:		
200	X	X
1400	X	X
4011*	X	X
4011A*	X	X
4011AS*	X	X
4011AS–A*	X	X
4011AS–AQ*	X	X
4011 AW*	X	X
4011A27–10100*	X	X
4011A27–10100 with filter*	X	X

Appendix A—Conforming Products List of Evidential Breath Measurement Devices—Continued

Manufacturer and model	Mobile	Nonmobile
5000*	X	X
5000 (w/Cal. Vapor Re-Circ.)*	X	X
5000 (w/3/8" ID Hose option)*	X	X
5000CD	X	X
5000 (CAL DOJ)*	X	X
5000VA	X	X
PAC 1200*	X	X
S–D2*	X	X
Decator Electronics, Decator, IL:		
Alco-Tector model 500*	----------	X
Intoximeters, Inc., St. Louis, MO:		
Photo Electric Intoximeter*	----------	X
GC Intoximeter MK II*	X	X
GC Intoximeter MK IV*	X	X
Auto Intoximeter*	X	X
Intoximeter Model:		
3000*	X	X
3000 (rev B1)*	X	X
3000 (rev B2)*	X	X
3000 (rev B2A)*	X	X
3000 (rev B2A) w/ FM option*	X	X
3000 (Fuel Cell)*	X	X
3000 D*	X	X
3000 DFC*	X	X
Alcomonitor[1]	----------	X
Alco-Sensor III	X	X
Alco-Sensor IV	X	X
RBT III	X	X
BRT III–A	X	X
RBT IV	X	X
Komyo Kitagawa, Kogyo, K.K.:		
Alcolyzer DPA–2*	X	X
Breath Alcohol Meter PAM 101B*	X	X
Life-Loc, Inc., Wheat Ridge, CO:		
PBA 3000–P*	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK:		
Alcolmeter Model:		
AE–D1*	X	X
SD–2*	X	X
EBA*	X	X
Auto-Alcolmeter*	----------	X
Luckey Laboratories, San Bernadino, CA:		
Alco-Analyzer Model:		
1000*	----------	X
2000*	----------	X
National Draeger, Inc., Pittsburgh, PA:		
Alcotest Model:	X	X
7010*	X	X
7110*	X	X
7410*	X	X
Breathalzyer Model:		
900*	X	X

APPENDIX A—CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile
900A* [1]	X	X
900BG*	X	X
National Patent Analytical Systems, Inc., Mansfield, OH:		
BAC DataMaster [2]	X	X
BAC DataMaster-Transportable	X	X
Omicron Systems, Palo Alto, CA:		
Intoxilyzer Model:		
4011*	X	X
4011AW*	X	X
Plus 4 Engineering, Minturn, CO:		
5000 Plus4*	X	X
Siemans-Allis, Cherry Hill, NJ:		
Alcomat*	X	X
Alcomat F*	X	X
Smith and Wesson Electronics, Springfield, MA:		
Breathalyzer Model:		
900*	X	X
900A*	X	X
1000*	X	X
2000*	X	X
2000 (non-Humidity Sensor)*	X	X
Stephenson Corp.:		
Breathalyzer 900*	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA:		
Alco-Analyzer 1000	.....	X
Alco-Analyzer 2000	.....	X
Alco-Analyzer 2100	X	X
Verax Systems, Inc., Fairport, NY:		
BAC Verifier*	X	X
BAC Verifier Datamaster*	X	X
BAC Verifier Datamaster II*	X	X
(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.8		

*Instruments marked with an asterisk (*) meet the Model Specifications detailed in 49 FR 48854 (December 14, 1984) (i.e., instruments tested at 0.000, 0.050, 0.101, and 0.151 BAC.) Instruments not marked with an asterisk meet the Model Specifications detailed in this notice (i.e., instruments tested at 0.000, 0.020, 0.040, 0.080, and 0.160 BAC.)

APPENDIX A—CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile

[1] During this reporting period, Intoximeters, Inc. provided VNTSC a modified Alcomonitor, the "Alcomonitor CC", for evaluation. In addition to a redesigned cabinet, a function has been added to permit the user to alter program sequencing and printing options via a desk-top computer. Because these modifications do not affect precision or accuracy, and since it is essentially the same as the approved device, the "Alcomonitor CC" does not require a separate listing on the CPL.

[2] During this reporting period, National Patent Analytical Systems, Inc., provided VNTSC with a BAC DataMaster having an internal keyboard. The addition of a keyboard, whether internal or external, does not affect precision and accuracy and does not require a separate listing on the CPL. Therefore the model designation "BAC DataMaster", for the purposes of the CPL, includes all such instruments, whether or not they have a keyboard.

Appendix B—Guidelines for Re-testing of Modified EBT

Manufacturers contemplating revisions to an EBT which is currently listed on the Conforming Products List (CPL) are advised that the revision may affect the status of the device on the CPL. It may or may not be necessary to retest the revised EBT. The manufacturer should inform NHTSA of the contemplated change so that a judgment can be made. The following lists the type of information NHTSA uses in determining the necessity to retest an instrument, and is provided as guidance to manufacturers:

- Manufacturer and Model Name.
- Nature and reason for change.
- Scope of change (e.g., will existing devices be retrofitted? Will the change apply to some users but not others?).
- •• Will the change affect performance of the device as regards the Model Specifications? (Precision and accuracy, acetone interference, blank reading, linearity, sampling efficiency, low or high temperature operation, low or high input power operation, mobile operation, electrical safety).
- Will the change alter performance with regard to the possibility of chemical or electrical interference or unusually high relative humidity?
- How will the changes be documented for the benefit of the user? (e.g., will the changes be documented in service bulletins and/or service manuals? If not, why not?).

If necessary for clarity, drawings of the current and changed device may also be helpful in NHTSA's deliberations.

If, upon review of information provided by a manufacturer, it is determined that re-testing is not warranted, a statement to that effect will be included in the next scheduled CPL update.

Appendix C—Alternate Breath Sampling Test

Select eight human subjects who are in good health. Their oral temperatures prior to the start of testing shall be between 97.0°F and 99.5°F.

Divide the subjects into two groups of four. The target BAC range for group 1 shall be from 0.04 to 0.10. The target BAC range for group 2 shall be from 0.10 to 0.20. In order to obtain a distribution of BACs, each subject shall be given a different amount of alcohol to drink. As a rough guide to dose vs. peak resultant BAC, and based on ingestion of a 100 proof beverage, a body weight of 160 lbs., and a 2 hour drinking period, 3 oz. of beverage should produce a BAC of 0.04; 6 oz. should produce a BAC of 0.10; and 8 oz. should produce a BAC of 0.15.

Blood samples taken shall be either from a vein in the arm or from capillaries in the fingertip. Non-alcoholic swabs shall be used to prepare the skin surface. If fingertip blood is to be taken, a 90-minute waiting period will be observed before beginning breath sample testing and if venous blood is to be taken, a 120-minute period will be observed. No subject may smoke during the 20-minute period before testing begins.

Use the EBT to measure the subject's breath, then take a blood sample, then measure the subject's breath again. Allow no more than five minutes between the taking of the first and second breath sample.

The blood samples shall be analyzed within 72 hours of being taken and at least two alcohol determinations shall be made on each sample. A reference sample of known BAC in the range 0.05 to 0.15 shall be prepared by the analyzing laboratory. Five determinations of the reference sample shall be made concurrently with the analysis of the human subject blood samples. The SD of the reference sample analysis shall not exceed 0.005 BAC and the SE shall not exceed ±5% of the known BAC.

Calculate the average blood result and the average breath result for each subject. Label each average blood result X_i (i=1 to 8 for each of the subjects, in ascending order of BAC). For each such result X_i, label the companion average breath result Y_i.

Calculate X_H, the average of the three highest blood results, and X_L, the three lowest. For the three highest blood results, and for the three lowest blood results, calculate the companion averages of the breath results, Y_H and Y_L.

Calculate X_M, the average of the eight blood results, and Y_M, the average of the eight breath results.

On graph paper, plot the points corresponding to (X_M, Y_M), (X_H, Y_H), (X_L, Y_L), and the eight points (X_i, Y_i).

Draw a straight line, the blood-breath correlation line, through the point (X_M, Y_M) and parallel to the line joining the points (X_L, Y_L) and (X_H, Y_H).

At X=0.100 on the blood-breath correlation line, mark points on the perpendicular at Y=−0.020 and another at Y=+0.020. Draw a line through each of these points, the negative bias and positive bias lines, parallel to the blood-breath correlation line. Requirements:

1. The value on the Y axis which corresponds to the point X=0.100 shall lie at or between 0.080 and 0.100.

2. At least seven of the eight averaged breath results shall lie within the area between the positive and negative bias lines.

[FR Doc. 93–22792 Filed 9–15–93; 11:52 am]
BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 179
Friday, September 17, 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).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

DATE AND TIME: Tuesday, September 21, 1993 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Open to the Public

Matters to be considered

1. *Pride in Public Service*

The Commission will present the Pride in Public Service Award to September's recipient.

2. *Voluntary Standards/International Affairs Activities*

The Staff will brief the Commission on voluntary standards and international affairs activities carried out by staff during the first half of calendar year 1993.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 (301) 504–0800.

Dated: September 14, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–22938 Filed 9–15–93; 1:42 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

DATE AND TIME: Thursday, September 23, 1993, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Closed to the Public

Matter to be Considered

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 (301) 504–0800.

Dated: September 14, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–22939 Filed 9–15–93; 1:42 pm]

BILLING CODE 6355–01–M

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 3:40 p.m. on Tuesday, September 14, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Reports of the Office of Inspector General.

Matters relating to the probable failure of certain insured depository institutions.

Recommendation relating to the cross-guaranty provisions of the Federal Deposit Insurance Act.

Recommendation concerning an administrative enforcement proceeding.

Application of First Hawaiian Bank, Honolulu, Hawaii, for consent to temporarily relocate its main office from 161 South King Street to 1132 Bishop Street, both sites within Honolulu, Hawaii, and to return to the South King Street location upon completion of construction of a new banking facility.

In calling the meeting, the Board determined, on motion 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)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: September 15, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–22937 Filed 9–15–93; 1:32 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 10:00 a.m., Wednesday, September 22, 1993.

PLACE: Board Room Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, DC 20006.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED

Portions Open to the Public: The Board will consider the following:

1. FHLBank System Reports
   A. Monthly Financial Report
   B. Monthly Membership Report
2. Affordable Housing Program (AHP)
   A. AHP Second Round Applications
   B. AHP Award Modifications
3. Modification of Definition of "Deposits in Banks or Trust Companies"
4. Proposed Revision to the Finance Board's Private Sector Adjustment Factor ("PSAF") Methodology

Portions closed to the Public: The Board will consider the following:

1. Approval of the August Board Minutes
2. FHLBank Use of the Borrowing Capacity Available Under the 20:1 Leverage Rule
3. REFCorp Mitigation and Proposed Revisions to the Financial Management Policy
4. 1994 Preliminary FHLBank System Budget
5. FHLBank Presidents' Compensation Plan—1994
6. Board Management Issues

The above matters are exempt under one or more of section 552b(c)(6) and (9)(A) and (B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–22922 Filed 9–15–93; 1:29 pm]

BILLING CODE 6725–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, September 23, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 15, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–22965 Filed 9–15–93; 2:53 am]

BILLING CODE 6210–01–P

Corrections

Federal Register
Vol. 58, No. 179
Friday, September 17, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-2300-02; GP3-357; OR-44583]

Order Providing for Opening of Lands; Oregon

Correction

In notice document 93-21474 appearing on page 46986 in the issue of Friday, September 3, 1993, make the following corrections:

1. In the first column, under **Willamette Meridian**, in T. 35 S., R. 24 E., in Sec. 14, insert ";" after "SE¼".

2. In the same column, in the same T. and R., in Sec. 24, "NW¼SW¼;" should read "NW¼NW¼;".

3. In the same column, in T. 35 S., R. 25 E., in Sec. 17, remove "lots".

4. In the second column, in T. 36 S., R. 24 E., in Sec. 1, in the second line, "expecting" should read "excepting".

5. In the same column, under **Willamette Meridian**, in T. 36 S., R. 25 E., in Sec. 8, remove "lots".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-2300-02; GP3-344; OR-45118]

Order Providing for Opening of Lands; Oregon

Correction

In notice document 93-21476 beginning on page 46986 in the issue of Friday, September 3, 1993, make the following correction:

On page 46987, in the first column, in T. 35 S., R. 33 E., in Sec. 27, in the second line, "SE¼NW¼," should read "SW¼NW¼,".

BILLING CODE 1505-01-D

federal register

Friday
September 17, 1993

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Availability for Historically Black Colleges and Universities Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–3659; FR–3540–N–01]

Funding Availability for Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1993.

SUMMARY: This NOFA announces up to $4.5 million of FY 1993 funding for the Historically Black Colleges and Universities (HBCU) Program plus any recaptured funds from prior appropriations. In the body of this document is information concerning the following:

a. The purpose of the NOFA and information regarding available amounts, objectives, eligibility and selection criteria;

b. Application processing, including how and when to apply and how selections will be made; and

c. A checklist of steps and exhibits involved in the application process.

DATES: No applications will be accepted after 4:30 pm on December 1, 1993. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A "FAX" will not constitute delivery.

ADDRESSES: FOR AN APPLICATION KIT CONTACT: Sylvester C. Angel, Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., room 7255, Washington, DC, 20410–3500. Requests must be in writing and may be sent to this address or may be made by facsimile machine to the following number: (202) 708–3363. The TDD number for the hearing impaired is (202) 708–2565. (This is not a toll-free number.) When requesting an application kit, please refer to document FR–3540, and provide your name, address (including zip code), and telephone number (including area code).

FOR FURTHER INFORMATION CONTACT: Dr. James Turk, Office of Technical Assistance, Department of Housing and Urban Development, 451 7th Street, SW., room 7253, Washington, DC 20410. Telephone Number: (202) 708–3176. The TDD number for the hearing impaired is (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The control number for information described in this document is 2535–0084.

I. Purpose and Substantive Description

Purpose

This program is designed to assist HBCUs to expand their role and effectiveness in addressing community development in their localities. For the purposes of this program, the term "locality" includes any city, county, town, township, parish, village, or other general political subdivision of a State within which an HBCU is located. An HBCU located in a metropolitan statistical area (MSA), as established by the Office of Management and Budget, may consider its locality to be one or more of these entities within the entire MSA. The nature of the locality for each HBCU may, therefore, differ depending on its location.

Objectives

The objectives of this program are:

1. To help HBCUs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of title I of the Housing and Community Development Act of 1974; and

2. To help HBCUs address the needs of their locality(ies) while furthering the following HUD values:

- A Commitment to Community;
- A Commitment to Family;
- A Commitment to Economic Lift;
- A Commitment to Strengthen Individual Rights and Responsibilities.
- A Commitment to Reduce Spatial Segregation by Race and Income.

Applicants must address objective 1 by successfully demonstrating how the proposed activities will expand the role of the HBCU in meeting local community economic development and/or housing needs while furthering HUD's priorities identified in objective 2.

A. Authority

This program is authorized under section 107(b)(2) of the Housing and Community Development Act of 1974 (the 1974 Act), which was added by section 105 of the HUD Reform Act of 1989. The program is governed by regulations contained in 24 CFR 570.201 through 207, 24 CFR 570.400, 570.404 and 24 CFR part 570, subparts A, C, J, K and O.

B. Allocation Amounts and Form

This notice announces HUD's intention to award up to $4.5 million (from FY 93 appropriation plus any additional recaptured funds from prior appropriations) to fund HBCU projects. The maximum amount awarded to any applicant will be $500,000. The awards will be made in the form of grants.

C. Eligibility

1. *Eligible applicants.* Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12677, dated April 28, 1989, are eligible to submit applications.

2. *Eligible activities.* Activities that may be funded under this NOFA are those activities eligible for CDBG funding. They are listed in 24 CFR 570.21 through 570.206, copies of which will be included in the application kit. Basic eligible activities include acquisition and disposition of real property, construction of low- and moderate-income housing and commercial enterprises to benefit low- and moderate-income neighborhood residents, public facilities and improvements, rehabilitation assistance, special economic development activities, planning and other activities. Those applicants planning to use funds for the provision of public services are bound by the statutory requirement that not more than 15% of the total grant amount be used for public service activities.

Activities which are ineligible for funding are listed in 24 CFR 570.207. Additionally, an activity which otherwise is eligible under 24 CFR 570.201–206 may not be funded if State or local law requires that it be carried out by a governmental entity.

For several years, under the technical assistance grants authority of section 107 of the 1974 Act, HBCUs have been funded to provide technical assistance to units of general local government to increase the effectiveness of such

entities in planning, developing and administering assistance under the CDBG program. While HBCUs continue to be eligible to compete for such technical assistance grants, the HBCU program to be funded under this Notice is not limited to the provision of technical assistance, but may include planning and implementation of the broader range of CDBG-eligible activities to provide opportunities for growth and development resulting in tangible economic uplift and improved living conditions for resident families in the locality of the HBCU. Activities that are not eligible under the CDBG program are not eligible under this program. Ineligible activities are listed at 24 CFR 570.207. Eligible activities and their requirements are found at 24 CFR 570.200 through 570.206. Such activities may include:

a. Identifying specific needs for affordable housing and increasing housing opportunities for low- and moderate-income persons throughout the locality;

b. Providing adequate infrastructure to support housing and economic development;

c. Meeting environmental review requirements to permit economic growth;

d. Supporting community design projects with amenities to improve living conditions and to create a climate which invites investment;

e. Forming partnerships with the State and local government to address the physical, social and economic needs of the community in a comprehensive manner;

f. Developing programs that provide a continuum of care for the homeless;

g. Working with local groups and organizations to combat discrimination in housing, mortgage credit and insurance, and to further fair housing;

h. Promoting opportunities for the creation and expansion of small businesses and minority enterprises;

i. Providing technical assistance and opportunities for homeownership;

j. Providing assistance to preserve the inventory of low-income housing in the locality through rehabilitation and preservation efforts; and

k. Promoting opportunities for training and employment of low income residents in connection with HUD and other Federally-assisted projects and activities.

3. *Environmental review.* Prior to HUD's determination and notification of successful applicants, HUD will perform an environmental review of proposed projects in each high ranking application to the extent required in accordance with 24 CFR part 50. If the environmental review is not satisfactory, HUD reserves the right to adjust the ranking or select lower ranking applications. The grantee is not authorized to proceed with any activity requiring environmental review until the applicant receives notification from HUD that the project has been approved.

In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501), HUD will not approve applications for any activities that would be located or carried out in the Coastal Barrier Resources System.

D. Selection Criteria/Ranking Factors

An applicant must demonstrate that it meets the objectives of this HBCU program by scoring at least 12 points on ranking factor 1 (addressing the objectives) in order to qualify for funding. Applicants must also receive a minimum score of 70 points in total to be considered eligible for funding. Activities which are not eligible for funding under this program (see 24 CFR 570.207) will not be funded. If more than 50 percent of the amount requested in the application is for ineligible activities, the application will not be funded.

Applications for funding under this Notice will be evaluated competitively, and awarded points based on the factors identified below. The Department will rank the applications in descending order according to score. Applications meeting the minimum threshold requirements will be funded in rank order, until all available funds have been obligated, or until there are no acceptable applications.

Negotiations. After all applications have been rated and ranked and a determination of successful applicants has been made, HUD requires that all successful applicants participate in negotiations to determine the specific terms of the Statement of Work and grant budget. In cases where HUD cannot successfully conclude negotiations, awards will not be made. In such instances, HUD may elect to offer an award (in an amount not to exceed the amount of remaining funds available for the competition) to the next highest ranking applicant and proceed with negotiations as described above.

Optional match. Although match is not required to qualify for funding, the Department wishes to stress that applicants that evidence a commitment of matching funds, in accordance with Ranking Factor 4.b., below, are eligible for more rating points than those not having a match. The maximum number of rating points an applicant can receive for matching funds is 7 points out of the 100 point total. Applicants having a cash match will receive a higher number of points than those only providing in-kind services or not providing any match for program activities. Matching funds may be in the form of cash and/or in-kind goods or services.

Ranking factors. The factors set forth below will be used by the Department to evaluate applications. Each application must contain sufficient information to be reviewed for its merits. The score of each factor will be based on the qualitative and quantitative aspects demonstrated for each factor in an application. The factors, and the maximum number of points for each factor (out of a total of 100 points), are as follows:

1. *Addressing the objectives.* (maximum points: 20)

The extent to which the applicant addresses the objectives of this program is examined by this factor. Applicants must address objective i. by successfully demonstrating how the proposed activities will expand the role of the HBCU in meeting local community economic development and/or housing needs while furthering HUD's priorities identified in objective ii.

1. The objectives of this program are:

i. To help HBCUs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of the 1974 Act; and

ii. To help HBCUs address the needs of their localities in meeting the following HUD values:

- A Commitment to Community;
- A Commitment to Family;
- A Commitment to Economic Lift;
- A Commitment to Strengthen Individual Rights and Responsibilities.
- A Commitment to Reduce Spatial Segregation by Race and Income.

b. In rating this factor, the Department will consider:

i. The extent to which the applicant demonstrates that the proposed activities and program will expand its role and effectiveness in addressing community development needs in its locality(ies), in accordance with the objective specified in section I.D.1.a.i. of this NOFA, above; and

ii. The extent to which the applicant demonstrates that the proposed activities will further one or more of the HUD values specified in section I.D.1.a.ii. of this NOFA, above.

2. *Substantial impact in achieving objectives.* (maximum points: 25)

The extent to which the applicant demonstrates that the proposed activities would have a substantial

impact in achieving the objectives in sections I.D.1.a.i. and ii of this NOFA, above, is examined by this factor. In rating this factor the Department will consider:

a. The extent to which the applicant demonstrates how the proposed activities will address high priority needs in each locality's community development plan or program, or Comprehensive Housing Affordability Strategy (CHAS) under 24 CFR part 91 if the activity is housing related.

b. The extent to which the applicant demonstrates how the proposed activities will make a substantial contribution to achieve local community development objectives.

3. *Special needs of applicant or locality.* (maximum points: 10)

The extent to which the applicant demonstrates that the locality has special needs which will be addressed or met by the proposed activities, particularly with respect to benefitting low- and moderate-income persons, including minorities, is examined by this factor. In evaluating this factor, HUD will consider the urgency of the special need in the locality, particularly with respect to low- and moderate-income persons, including minorities.

4. *Technical and financial feasibility and match.* (maximum points: 25)

The extent to which the applicant demonstrates the technical and financial feasibility for achieving the objectives, including local support for the activities proposed to be carried out in the locality and any matching funds proposed to be provided from sources other than the applicant is examined by this factor. In rating this factor, the Department will consider:

a. The extent to which the applicant demonstrates the technical feasibility for achieving the objectives within the program period proposed;

b. The extent to which the applicant demonstrates the financial feasibility and local support for the activities to be carried out in the locality, as evidenced by the commitment, from sources other than the applicant, of matching funds, staffing, services, or other in-kind resources. (Applicants that evidence such a commitment of matching funds are eligible to receive a higher score than those not having a match. See the discussion under the heading Optional Match in this section I.D., above.)

5. *Capacity.* (maximum points: 20)

The extent to which the applicant demonstrates the capacity to carry out satisfactorily the proposed activities in a timely fashion, including satisfactory performance in carrying out any prior HUD-assisted projects or activities, is examined by this factor. In rating this factor, the Department will consider:

a. The extent to which the applicant's proposed management plan:

i. Clearly delineates staff responsibilities and accountability for all work required;

ii. Presents a work plan with a clear and feasible schedule for conducting all project tasks; and

iii. Presents a reasonable and adequate planned budget as reflected in the budget-by-task and supporting rationale and justification for the budget.

b. The extent to which the applicant demonstrates the recent and relevant work experience of the staff proposed to undertake the activities described in the Statement of Work.

c. The extent to which the applicant can demonstrate that its past and current projects funded by HUD and/or other Federal or private sector sources are or have been completed on schedule and have or are meeting goals established for addressing local needs.

d. The extent to which the applicant demonstrates the proposed program manager's capacity, background and experience to carry out the proposed activities in a satisfactory and timely fashion, as evidenced by recent work experience in managing projects of the same or similar size, dollar amount, and types of activities as those proposed in the application.

II. Application Process

A. Obtaining and Submitting Applications

For an application kit contact: Sylvester C. Angel, Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., room 7253, Washington, DC 20410. Requests must be in writing and may be sent to this address or may be made by facsimile machine to the following number: (202) 708–3363. The TDD number for the hearing impaired is (202) 708–2565. (This is not a toll-free number.) When requesting an application kit, please refer to document FR–3540, and provide your name, address (including zip code), and telephone number (including area code).

Application kits will be available no later than 30 days from the date of publication of this Notice. Applicants are advised to request an application kit before preparing and submitting their response to this NOFA.

For Further Information Contact: Dr. James Turk, Office of Technical Assistance, Department of Housing and Urban Development, 451 7th Street, SW., room 7253, Washington, DC 20410. Telephone Number: (202) 708–3176. The TDD number for the hearing impaired is (202) 708–2565. (These are not toll-free numbers.)

B. Application Deadline

An application for funding under this Notice must be received by 4:30 pm on November 16, 1993 in room 7255 of the HUD Headquarters Building. Complete instructions for submission of the application are contained in the application kit. An application received after the deadline date will not be given funding consideration.

III. Checklist of Application Submission Requirements

A. Document Submissions

Each application must include an original and three copies of the following documents:

1. *Standard Form 424* (Request for Federal Assistance) signed by the Chief Executive Officer of the HBCU submitting the application.

2. *Statement of Work.* All applicants must submit with their application a Statement of Work which clearly identifies the activities to be undertaken with funds available under this NOFA, and the locality(ies) where the activities will take place. Activities should be broken out in accordance with CDBG activity designations as specified in the CDBG Handbook of Eligible Activities (24 CFR 570.201–570.206). The Statement of Work must incorporate all eligible activities proposed in the application and detail how the proposed work will be accomplished. Following a task-by-task format, the Statement of Work must:

a. Provide a brief description of each program task and sub-task that will be undertaken with HUD funds;

b. Provide a brief description of each program task and sub-task to be carried out with non-HUD funds which are critical to the project;

c. Indicate the sequence in which the tasks are to be performed noting areas of work which must be performed simultaneously;

d. State the intermediate and end products to be developed by task and sub-task;

e. Provide a framework for, and be consistent with, the Project Management Plan requirements; and

f. Identify the locality(ies) assisted by the activities.

3. *Project Management Plan.* All applicants are required to submit with the application a Project Management System Baseline Plan (441.1) and

accompanying narrative which describes the specific Statement of Work tasks/sub-tasks to be performed, the financial elements of the grant, and the projected timeframe for completing each task and sub-task.

a. The narrative shall:

i. Describe the planned schedule for accomplishing each task;

ii. Identify steps and milestones in the work process required for completing each task;

iii. Identify the period of time needed to accomplish each step/milestone expressed in terms of calendar dates; and

iv. List the staff, financial, and other resources allocated to each task/activity.

b. The HUD 441.1 shall show:

i. Budgeted costs of work by task over the life of the award; and

ii. The planned project schedule that traces, by reporting period, the task and sub-task start dates, periods of work in progress, and completion dates.

4. *Summary Budget* for both the Federal share and non-Federal share of funds for the project.

5. *SF 424B,* Assurances and other required certificates.

6. *SF 424A,* Budget Information for non-construction programs and/or *SF 424C* Budget Information for Construction Programs.

7. *Audit information.* A copy of the HBCU's most recent audit specifying that the applicant's accounting system meets the requirements of OMB Circulars A–21 and A–110 or letter from the Chief Financial Officer of the applicant's organization stipulating they are in compliance with the requirements of OMB Circulars A–21 and A–110.

8. *Local approval.* This program is designed to assist HBCUs to expand their role and effectiveness in addressing community development in their locality(ies). The term locality will differ for each HBCU, depending on its location. It includes any city, county, town, township, parish, village, or other general political subdivision of a State within which the HBCU is located. An HBCU located in a metropolitan statistical area, as established by the Office of Management and Budget, may consider its locality to be one or more of these entities within the entire area.

Since eligible activities must take place in a locality, each local government where an activity is to take place must approve the activity and state that the activity is not inconsistent with its community development plan or program. This approval and finding must accompany each application and may take the form of a letter by the chief executive officer of the locality or resolution by the legislative body of the locality.

9. If matching funding is to be provided, a letter from the Chief Executive Officer of the locality, corporation or other entity providing the match certifying as to the type, amount, and timing of the match.

10. *Level of effort budget analysis (HUD 40079).* A successful applicant will be required to submit a Level of Effort Budget Analysis (HUD 40079) which identifies the staff and other resources needed to conduct each of the work activities, by Task and Sub-task, identified in the Statement of Work. The HUD 40079 should be accompanied by a narrative which provides the rationale for the staff utilization, project organization, travel and other resources allocated to each task and sub-task.

IV. Corrections to Deficient Applications

Immediately after the deadline for submission of applications, applications will be screened to determined whether all items were submitted. If the applicant fails to submit certain technical items, or the application contains a technical mistake, such as an incorrect signatory, the Department shall notify the applicant in writing that the applicant has 14 calendar days from the date of the written notification to submit the missing item, or correct the technical mistake. If the applicant does not submit the missing item within the required time period, the application will be ineligible for further processing.

The 14-day cure period pertains only to non-substantive technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/ranking factors; and

2. Would not improve the substantive quality of the proposal.

V. Other Matters

(a) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(b) Federalism, Executive Order 12612

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits HBCU applicants to expand their role in addressing community development needs in their localities and does not impinge upon the relationships between the Federal government, and State and local governments.

(c) Family, Executive Order 12606

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document does not have potential for significant impact on family formation, maintenance, and general well-being. The notice only solicits HBCUs to apply for funding to address community development needs in their locality. Any impact on the family will be indirect and beneficial in that better planning of community development needs should result.

(d) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

(e) Section 102 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 basic 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 requirements.)

(f) Section 103 HUD Reform Act

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 applications and in the making of funding decisions are limited 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 inquires 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.

(g) Section 112 HUD Reform Act

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.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d); 24 CFR 570.404.

Dated: September 3, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 93–22753 Filed 9–16–93; 8:45 am]

BILLING CODE 4210–29–M

federal register

Friday
September 17, 1993

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 71 and 91
Alteration of the Denver Class B Airspace Area, CO; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 91

RIN 2120–AE46

[Airspace Docket No. 91–AWA–3]

Alteration of the Denver Class B Airspace Area; CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Denver, CO, Class B Airspace Area to coincide with the scheduled opening date of the new Denver International Airport. The new Denver International Airport will replace the Denver Stapleton International Airport. This action will enable air traffic control (ATC) to provide terminal ATC service to turbojet aircraft in Class B airspace throughout transition to and from the en route structure. The lateral limits of the Class B airspace area will extend to 30 nautical miles from Denver International Airport to provide an area in which ATC can provide control services throughout critical maneuvering phases of flight operations in the terminal area. The upper limits of the Class B airspace area will increase to 12,000 feet mean sea level (MSL). This action will enhance air traffic procedures and simplify visual flight rules (VFR) transient operations outside the Class B airspace area. An objective of this action is to increase safety substantially while accommodating the legitimate concerns of airspace users.

EFFECTIVE DATE: 0701 UTC, December 19, 1993.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, 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) 267–9230.

SUPPLEMENTARY INFORMATION:

Background

Airspace reclassification, which becomes effective September 16, 1993, will discontinue the use of the term "Terminal Control Area" (TCA) and replace it with the designation "Class B airspace." This change in terminology is reflected in this rule. On May 21, 1970, the FAA published amendment No. 91–78 to part 91 of the Federal Aviation Regulations (FAR) that provided for the establishment of Class B airspace areas (35 FR 7782). The Class B Airspace Area program was developed to reduce the midair collision potential in the congested airspace surrounding airports with high density air traffic by providing an area in which all aircraft will be subject to certain operating rules and equipment requirements. The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier, military, or another GA aircraft. The basic causal factor common to these conflicts was the mix of uncontrolled aircraft operating under VFR and controlled aircraft operating under instrument flight rules (IFR). The establishment of Class B airspace areas provides a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace afford the greatest protection for the greatest number of people by providing ATC with an increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft. To date, the FAA has established a total of 29 Class B airspace areas.

Suspension of Certain Aircraft Operations From the Mode C Transponder Requirement

On June 21, 1988, the FAA published a final rule which required aircraft to have Mode C equipment when operating within 30 nautical miles of any designated Class B airspace area primary airport from the surface up to 10,000 feet MSL, excluding those aircraft not certificated with an engine-driven electrical system, balloons, or gliders (53 FR 23356).

On December 5, 1990, the FAA published Special Federal Aviation Regulation (SFAR) No. 62 which suspends, until December 30, 1993, certain provisions of the regulation requiring the installation and use of automatic altitude-reporting (Mode C) transponders (55 FR 50302). SFAR No. 62 provides access to specified airports within 30 miles of a Class B airspace area primary airport (Mode C veil) for aircraft without Mode C transponders.

Paragraph (7), section 2, of SFAR No. 62 identifies airports within a 30-nautical-mile radius of the Denver Stapleton International Airport where aircraft not equipped with Mode C transponders can operate at and below 1,200 feet above ground level (AGL): (1) Within a 2-nautical-mile radius, or, if directed by ATC, within a 5-nautical-mile radius, of a listed airport; and (2) along the most direct and expeditious routing, or a routing directed by ATC between that airport and the outer boundary of the Mode C veil, consistent with established traffic patterns, noise abatement procedures, and safety.

The designation of Denver International Airport as a Class B airspace area-primary airport will create a new Mode C veil located within a 30-nautical-mile radius of Denver International Airport. Consequently, the FAA is adding 13 airports to paragraph 7, section 2 of SFAR No. 62. These airports, located approximately 25 to 30 miles from Denver International Airport and outside the Denver Stapleton Mode C veil, are:

(1) Air Dusters Inc., Airport, Roggen, CO,
(2) Bijou Basin Airport, Byers, CO,
(3) Bowen Farms No. 1 Airport, Littleton, CO,
(4) Chaparral Airport, Byers, CO,
(5) Dead Stick Ranch Airport, Kiowa, CO,
(6) Horseshoe Landings Airport, Keenesburg, CO,
(7) Kostroski Airport, Franktown, CO,
(8) Lemons Private Strip Airport, Boulder, CO,
(9) Reid Ranches Airport, Roggen, CO,
(10) Singleton Ranch Airport, Byers, CO,
(11) Sky Haven Airport, Byers, CO,
(12) Tri-County Airport, Erie, CO,
(13) Westberg-Rosling Farms Airport, Roggen, CO.

Additionally, the FAA is removing five airports from paragraph 7, section 2, of SFAR 62 because they are located beyond the Denver International Airport Mode C veil. These airports are:

(1) Athanasiou Vally Airport, Blackhawk, CO,
(2) Flying J Ranch Airport, Evergreen, CO,
(3) Marshdale STOL, Evergreen, CO,
(4) Meyer Ranch Airport, Conifer, CO,
(5) Vance Brand Airport, Longmont, CO.

User Group Participation

The alteration of the Denver Class B Airspace Area is the product of discussions with a broad representation of the aviation community. In conjunction with this action, the FAA will continue to work with local user groups to ensure that the Class B airspace area is efficacious for all users by identifying any adjustments or modifications that appear necessary. Through joint FAA and user cooperation, any problems that arise can

then be identified and corrective action taken when necessary.

This Class B airspace configuration has been developed through substantial public participation. Informal airspace meetings were held in the Denver area September 11–13, 1990, to allow local aviation interests and airspace users an opportunity to provide input regarding alteration of the Denver Class B Airspace Area. Fourteen written comments were received from private citizens, local government agencies, user groups, and local airport authorities during the public comment period following the informal airspace meetings.

The Denver Ad Hoc Airspace Committee, representing a cross section of the aviation community, was formed; technical assistance and support were supplied by the FAA Northwest Mountain Region. Following the informal meetings and extensive coordination with the airspace user groups, the FAA prepared a proposed TCA configuration. This configuration was published in a Notice of Proposed Rulemaking (NPRM) on August 26, 1992 (57 FR 38724). The NPRM was published prior to the effective date of the Airspace Reclassification Final Rule, and, as stated earlier, under Airspace Reclassification TCA's will become Class B airspace. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North American Datum 83. Class B airspace designations are published in Paragraph 3000 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 Class B airspace area listed in this document will be published subsequently in the Order.

Discussion of Comments

The FAA received 27 comments in response to the NPRM. The FAA has considered these comments in adopting this final rule.

All commenters supported the alteration of the Denver Class B Airspace Area to coincide with the opening of the new Denver International Airport; 21 commenters suggested some minor changes.

The Helicopter Association International (HAI) expressed concern about raising the upper limits of the Class B airspace area above 10,000 feet MSL without VFR routes or flyways. It indicated that most helicopters use the lower levels of airspace because they are not pressurized and lack oxygen equipment. Arguing that the proposed Class B airspace area configuration would exclude or present an undue hardship on helicopter operations, the HAI recommended that the FAA coordinate with all the Denver Class B Airspace Area users before imposing a rule that would exclude or present an undue hardship on a particular segment of the industry.

The FAA agrees with HAI concerning VFR flyways. VFR flyways have been developed with the assistance of a local users group and will be published on the reverse side of the Denver VFR Terminal Area Chart.

One commenter opposed raising the ceiling from 10,000 to 12,000 feet MSL (and erroneously assumed the FAA was extending the outer boundary of the Class B airspace area from 40 to 60 miles), calling the proposed Class B airspace area too large and, therefore, overly restrictive. He suggested limiting the ceiling to 10,000 feet and the outer boundary to 40 miles in diameter. He stated that a smaller Class B airspace area would be more desirable to users and that fewer ATC procedures imposed on the users would be more beneficial.

The FAA disagrees with the commenter. The FAA is modifying the Denver Class B Airspace Area to encompass airspace from the surface or higher within a 30-mile radius of the Denver International Airport up to and including 12,000 feet MSL. The FAA believes that this action will provide the highest degree of safety while preserving the most efficient use of the available terminal airspace.

Nine commenters suggested, in an effort to increase safety and reduce Class B airspace area infractions, relocating the proposed center of the Denver Class B Airspace Area to the Mile High Very High Frequency Omnidirectional Range (VOR). They also suggested raising the floor of the area defined by the 10- and 20-nautical-mile rings and the Denver VOR 156° and 090° radials from 8,000 to 9,000 feet MSL.

The FAA cannot accommodate these suggestions. Relocating the center of the Class B airspace area to the Mile High VOR would impact the FAA's ability to provide simultaneous parallel instrument landing system (ILS) approaches to three parallel runways. The floors were established to contain IFR procedures at Denver International Airport in Class B airspace, and raising the floors would place these operations outside the Class B airspace.

Several commenters, including the Colorado Pilots Association and the Aircraft Owners and Pilots Association, claimed that the Class B airspace area configuration lacked visual references or prominent landmarks for VFR navigation around the Denver Class B Airspace Area. Also, they requested that access routes in the form of transition routes and flyway routes be developed to accommodate the VFR user.

The FAA has, to the extent practical, used geographical landmarks and coordinates to delineate the boundaries of the Class B Airspace Area. When the new Denver Class B Airspace Area becomes effective, the current VFR Terminal Area Chart will become obsolete for navigational purposes. The FAA will issue a new VFR Terminal Area Chart to be used for navigational purposes within the Class B airspace area. To assist the flying public, the flyway chart on the Denver VFR Terminal Area Chart will contain the VFR landmarks published on the existing VFR Terminal Area Chart, additional VFR landmarks, recommended VFR flyways, and recommended altitudes.

One commenter suggested that the floor of the Class B airspace area north of the Denver International Airport, Area J, be raised from 7,000 to 8,000 feet MSL and that the floor of Area N be raised from 8,000 to 9,000 or 10,000 feet MSL. The commenter stated that these altitude changes would allow obstruction clearance from a tower located between the Firestone Airport and Platte Valley Airport. He also suggested that the outer boundary limits of the Class B Airspace Area be reduced from 30 to 25 nautical miles, with a further reduction to 20 nautical miles between the Denver VOR 090° and 270° radials. Finally, the commenter stated that the Class B airspace area configuration conflicts with the instrument approach procedures into Fort Collins-Loveland Airport and creates a likelihood of inadvertent penetration into the Class B airspace area during instrument training and proficiency flights.

The FAA disagrees. The instrument approach procedures into the Fort Collins-Loveland Airport are below the floor of the Class B airspace area. The FAA also has determined that the tower located between the Firestone Airport and Platte Valley Airport does not impose a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft. The FAA extended the boundary of the Class B airspace area to 30 miles only in areas necessary to ensure that turbojets enter and exit through the top of the Class B airspace area. The western boundary was adjusted to allow additional airspace for VFR operation outside Class B airspace. The FAA believes that the floors of Areas J and N will allow aircraft sufficient obstruction clearance

from the tower located between Firestone Airport and Platte Valley Airport.

The City and County of Denver (the City) objected to the proposed cutouts to the inner 10-nautical-mile core of the Class B airspace area, specifically Areas B, C, and D. For Area B, Denver requested that the floor of the cutout for Buckley Air National Guard Base (Buckley) be reduced from 7,500 to 7,200 feet MSL. It also requested that Gun Club Road of the east side of Buckely be used as the boundary of the cutout and that the edge be extended directly along the east edge of the residential development north of Sand Creek to the interchange of Gun Club Road and Interstate 70. The City indicated that this would still enable VFR arrivals and departures on Buckley's runway 14, standard arrival and departure patterns to the west of the base, and a teardrop arrival onto runway 32 from the south in the absence of positive control. The City claimed that using these landmarks would reduce the width of the cutout to the east and allow a partial divergence of 7.5° for departures from Denver International Airport's runway 17R. The City also claimed that this angle, when coupled with a similar departure divergence to the east, increases the departure capacity on runway 17R by virtue of establishing a 15° divergence capability.

The City also recommended that language in the final rule address revocation of the airspace in Area C. It indicated that its recommendation was based on the foreseeable closure of Aurora Airpark and that appropriate language in this final rule would eliminate the need for future rulemaking to reevaluate the airspace. The City recommended that, during the interim between this final rule and the closure of Aurora, the width of the east boundary be reduced to an area that more adequately represents its limited use, and that aircraft arriving and departing Aurora Airpark be required to use the north-south access. It also recommended that after Aurora closes, the severed area should then be incorporated into Area A, which extends from the surface to 12,000 feet MSL.

The City objected to providing a cutout for Front Range Airport (FTG) and requested that Area D be eliminated by extending the Class B airspace area down to the surface of Area D. It expressed concern about an anticipated high level of student training activity at FTG and the proposed operations of a cargo carrier that will be moving its base to FTG. The City also claimed a potential conflict between westbound aircraft departing FTG and northbound aircraft arriving at the new Denver International Airport because FTG traffic has approximately 2 miles to turn inside the Area D cutout. The City cited a need for positive control at all times and stated that the airspace in Areas A and C should extend upward from the surface to and including 12,000 feet MSL.

Further, the City stated that the potential still exists within the Class B airspace area for a catastrophic consequence, such as a midair collision, because the distance between Denver International Airport's runway 35R and FTG's runway 8L is only 4 nautical miles. It claims that by comparison, the closest runway ends at Dallas/Ft. Worth International Airport and Dallas Love Field are 7.5 nautical miles.

The FAA disagrees with the City's recommendation on providing language in this final rule that would revoke airspace in Area C should the Aurora Airport close in the foreseeable future. This issue will require the appropriate rulemaking action to modify the Class B airspace for that area.

The FAA considered all comments in the adoption of the final Class B airspace area design. The City's suggestions for altering Area B's boundary are not adopted in this final rule. The FAA disagrees with the City's claims that there will be a potential conflict between westbound aircraft departing FTG and northbound aircraft arriving at the new Denver International Airport. The FAA believes that the design of the Class B airspace and the operational procedures utilized for aircraft arriving northbound to Denver International will contain those aircraft in the Class B airspace without conflict with nonparticipating aircraft operating in the underlining airspace, including those aircraft departing westbound from FTG.

The FAA believes that the final Class B airspace area design promotes the safe and efficient use of airspace while satisfying ATC requirements. The FAA determined that lowering the altitude of Area B will impact Buckley's mission in its role in national defense, as stated in the NPRM. The elimination of Areas C and D would require operators at the Aurora Air Park and FTG to obtain an air traffic clearance to operate in and out of those airports. In the case of instrument flight rules departures, pilots would be required to contact the Denver Tower to obtain a clearance, along with a release time and a clearance void time. Because of the length of time the released airspace would have to be protected, the FAA determined that pilots would encounter lengthy delays if the City's suggestions were adopted. Arriving aircraft could also experience delays, depending on traffic at the Denver International Airport. Further, since Denver submitted its comments, the FAA has learned that the cargo carrier will not be moving its base operations to FTG. The FAA, however, will continue to monitor air traffic activity at FTG.

The Colorado Army National Guard requested that the floor of Area C be raised from 6,200 feet MSL to either 6,300 or 6,500 feet MSL, or that the northern boundary of Area C be moved south, but no farther than 2 miles south of I–70, to allow the floor of Area C to be at least 6,300 feet MSL. It stated that the additional altitude would allow a significant increase in the margin of safety for its aircraft departing eastbound during night operations. It further stated that the lighting system of a 306-foot tower in the southeast portion of Area C has a history of faulty operation and that a pilot unfamiliar with the area, transitioning at 6,200 feet MSL, may be at substantial risk.

The FAA agrees and is establishing the floor of Area C at 6,500 feet MSL to enhance obstruction clearance for VFR aircraft traversing underneath the floor of Area C.

Additional commenters suggest that the base altitude for Area B be lowered from 7,500 to 7,200 feet MSL, that Area D be eliminated and incorporated into Area A, and that Area C be eliminated or reduced in size.

The FAA cannot support these suggested modifications of the Class B airspace area. The floor of the Class B airspace area was established to contain IFR procedures at Denver International Airport in the Class B airspace area. The FAA believes that the floor of the Class B airspace area in Areas B, C, and D south of Denver International Airport, will allow ample airspace for safe aircraft operations in the vicinity of Buckley Air National Guard (ANG) Base and provide obstruction clearance.

The Soaring Society of America (SSA) and Collegiate Soaring Association suggested that the southern Class B airspace area boundary be realigned to coincide with Colorado Highway 86 between Castle Rock and I–25 on the west through Franktown, Elizabeth, and Kiowa, CO. The Association stated that a cutout for Areas L and M would reduce the Class B airspace area radius by 5 nautical miles and would enhance safety by making it easier for pilots to avoid inadvertent incursions into the Class B airspace area. The SSA requested that the FAA maintain the current "Wave Window" Letters of

Agreement to allow high altitude wave soaring.

The FAA believes that the alteration of the southern boundary is not necessary and that this area allows ample visual landmarks for uncontrolled VFR traffic to avoid the Denver Class B airspace boundary. The FAA will continue, however, to support the designated soaring areas through Letters of Agreement between the soaring organizations. This action will allow the soaring organizations to proceed without disrupting their operations and will continue to serve the general aviation community.

In sum, the FAA will alter the Class B airspace area as proposed in the NPRM, except the Area C floor will be raised to 6,500 feet.

Three-Letter Airport Identifier

In the preamble of the NPRM, the FAA used the three-letter designation "DEN" to identify Denver Stapleton International Airport and "DVX" to identify the new airport, Denver International Airport. In addition, the VOR facility was identified as "Watkins." The term "Watkins VOR" has been replaced with the term "Denver VOR."

In a joint letter dated August 28, 1992, the airport planner of the New Denver Airport Office and the regional director of the Air Transport Association requested that the FAA retain the three-letter location designation—DEN—to identify the new airport and the VOR facility. To support their request, they argued that printing new baggage tags would impose a financial burden if the new airport was not permanently assigned the DEN identifier, and flight planning would be affected only minimally, if at all, by reassigning the DEN designator to the new airport.

In response to their request, the FAA determined that the location identifier for Denver Stapleton International Airport—DEN—will be reassigned to the new airport and will replace DVX when the new airport opens. Further, the location identifier for the Denver VORTAC (DEN) will be reassigned to the Denver VOR, which will be commissioned when the airport opens. The Denver VORTAC will be decommissioned at the same time.

The Rule

These amendments to parts 71 and 91 of the Federal Aviation Regulations (FAR) modify the Class B airspace area at Denver to coincide with the establishment of the new Denver International Airport. The Denver International Airport will replace the Denver Stapleton International Airport. This alteration will better serve the users, as well as the FAA, by providing airspace configured to contain the new procedures that will be implemented at Denver. The FAA has determined that modifying the Class B airspace area to coincide with the relocation of the new Denver International Airport is in the interest of flight safety and will result in a greater degree of protection for the greatest number of people during flight in the terminal area. The alteration is depicted on the attached chart.

The modified configuration considers the present terminal area flight operations and terrain as follows:

1. The inner core of the Class B airspace area includes airspace 10 nautical miles from the Denver VOR from the surface to and including 12,000 feet MSL. There are cutouts for five airports in the inner core of the Class B airspace area: Aurora, Buckley ANG Base, Front Range, Heckendorf, and Brighton Van Aire. The floor of the Class B airspace area in these areas varies from 6,500 to 7,500 feet MSL. This airspace will contain instrument approach and departure procedures for Denver International Airport and allow adequate airspace for operations at the above airports without affecting aircraft transitioning to final approach visually or on radar vectors for an instrument approach into Denver International Airport. Bromley Lane depicts the northern boundary of the inner core of the Class B airspace area. The vertical limit of the entire Class B airspace area will be 12,000 feet MSL.

2. The intermediate area includes airspace between 10 and 20 nautical miles from the Denver VOR, including airspace extending west to Wadsworth Boulevard and Colorado Highway 287 and bounded, in part, on the north by Colorado Highway 7 and on the south by Hampden Avenue. The intermediate area contains subarea floors that vary from 6,000 to 8,000 feet MSL. This airspace will provide a stepdown profile to contain aircraft in the radar traffic pattern transitioning to the final approach course from their downwind and base legs for the primary airport. It also will provide airspace for departures transitioning to the en route environment.

3. The outer area, between the 20- and 30-nautical-mile radius from the Denver VOR, contains floors varying from 8,000 to 10,000 feet MSL. This airspace will provide an area to contain aircraft during climb and descent profiles to transition between the terminal and en route structure, and it will allow VFR aircraft to circumnavigate the Class B airspace area. Arriving turbojet and turboprop aircraft will enter terminal airspace from four designated areas. The configuration of the outer area is designed to allow sufficient airspace for departures while allowing arriving aircraft to be vectored and sequenced to the final approach courses. This configuration also will preserve airspace below the Class B airspace area for nonparticipating aircraft.

The preceding summary of the alteration of the Class B airspace configuration identifies that airspace that is necessary to contain large turbojet aircraft operations at the Denver International Airport. ATC will provide control and separation services to all flights within the airspace boundaries. Furthermore, ATC authorization is required for aircraft operations within that airspace. Modifying this Class B airspace area will enhance the safety of flight within the congested airspace overlying the Denver metropolitan area by facilitating the separation of controlled and uncontrolled flight operations.

The FAA is amending SFAR No. 62 by adding 13 airports located within a 30-nautical-mile radius of the Denver International Airport. The FAA is removing five airports from paragraph 7, section 2, of SFAR No. 62 because they are located beyond the Denver International Airport Mode C veil. This action will allow operators, without Mode C transponders, access to the airports listed in paragraph 7, section 2, of SFAR No. 62.

Paperwork Reduction Act

There are no requirements for information collection associated with this rule requiring approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1990 (Pub. L. 96–511).

Regulatory Evaluation Summary

Introduction

Executive Order 12291 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of the rulemaking action. The results are summarized in this section. For more detailed economic information, see the full regulatory evaluation contained in the docket.

Benefit-Cost Analysis

The final rule will extend the lateral limits of the Denver Class B airspace

area to 30 nautical miles from the Denver International Airport to provide an area in which ATC can provide services throughout critical maneuvering phases of flight operations in the terminal area. The new Denver International Airport is replacing Denver Stapleton International Airport.

This rule will raise the upper limits of the class B airspace area from 11,000 to 12,000 feet MSL. In addition, this final rule will extend the lateral limits of the Class B airspace area from 20 to 30 nautical miles from Denver International Airport. To a lesser extent, the rule will also eliminate Class B airspace by 4 nautical miles in the western boundaries.

The final rule will enhance aviation safety by lowering the risk of midair collisions through ATC's increased capability to separate all aircraft in terminal airspace in and around the Denver area, while accommodating the legitimate concerns of airspace users.

Costs

The FAA has determined that modification to the Denver Class B Airspace Area will impose costs of $195,000 on the FAA to revise the aeronautical charts of the Denver area. No costs will be imposed on aircraft operators.

Costs to the FAA

The final rule will not impose any additional administrative cost on the FAA for either personnel or equipment. The additional operations workload generated by the final rule will be absorbed by current personnel and equipment resources in place at the Denver International Airport. The final rule will require neither any additional air traffic controllers nor any additional radar control or handoff positions at the Denver International Airport.

Another potential cost to the FAA associated with the final rule is the revision of aeronautical charts to reflect the change of the airspace to the Denver Class B Airspace Area. Typically, the revisions of aeronautical charts is done on a routine 6-month schedule, and any revisions would be considered a normal cost of doing business. However, the implementation date of the Denver Class B Airspace Area does not fall in the routine charting cycle. As a result, a special printing must be made to reflect the new Class B airspace area. The FAA estimates that the one-time cost of this off-cycle printing, which includes changing the printing plates, is $195,000.

Costs to Aircraft Operators

In terms of aircraft operators, the final rule will not impose any additional cost in the form of avionics equipment. The final rule will not adversely impact aircraft operators who operate under IFR, primarily large air carriers, business jets, commuters, and air taxis.

The final rule could, however, potentially impact aircraft operators who routinely operate under VFR, primarily operators of small GA airplanes and other GA aircraft operators such as glider pilots and balloonists. Potential costs to aircraft operators without Mode C transponders have already been accounted for by the Mode C rule. The potentially affected GA aircraft operators are assumed to already have the other types of avionics equipment (such as operable two-way radio) required for entering a Class B airspace area. The only aircraft without Mode C transponders would be aircraft not originally certificated with an engine-driven electric system, or which have not subsequently been certified with such a system installed. Costs to these types of aircraft have already been accounted for by the Mode C rule.

As a result of the final rule, segments of the Class B airspace area lateral boundaries will be expanded from 20 to 30 nautical miles, and floors will range from 8,000 to 10,000 feet MSL in the outer area of the Class B airspace area. This configuration will allow GA airplane operators, glider pilots, and balloonists to circumnavigate the Denver Class B Airspace Area in a manner that would require little deviation from current flying practices. Operators will be permitted to operate beneath the floors in the expanded segments of the Class B airspace area lateral boundaries primarily to the east of Denver International Airport. The final rule will not have an adverse impact on GA student pilots because they rarely fly in airspace above 10,000 feet MSL. In nearly all instances, a floor of 10,000 feet MSL is considered to be sufficient space to allow GA student pilots to conduct their flying underneath the expanded segments of the Class B airspace area lateral boundaries.

Because the existing floors (primarily to the west of Denver International Airport) take into account high terrain, sufficient airspace for sports parachutists to conduct jumps would still be available without Class B airspace area involvement. Thus, balloonists and ultra-light and sailplane operators will not be significantly affected by the final rule. Letters of agreement are expected to be executed, where advisable, to ensure minimum effect on these operators.

Benefits

The final rule is expected to generate benefits primarily in the form of enhanced safety to the aviation community and the flying public. These benefits, for instance, will take the form of reduced risk of aviation fatalities and property damage as the result of a lowered risk of midair collisions.

The alteration of the Denver Class B Airspace Area will create more controlled airspace by increasing the ceiling from 11,000 to 12,000 feet MSL and extending, from 20 to 30 nautical miles, the northern, southern, and eastern lateral boundaries. Because the nature of this rule is proactive, or to prevent a safety problem from developing, the potential safety benefits are extremely difficult to quantify in monetary terms.

In this case, the potential safety problem derives from an increased complexity (or density) of aircraft operations in the vicinity of the present ceiling and lateral boundaries of the Denver Class B Airspace Area. As a result of this increased complexity, the regulatory airspace will be expanded in the aforementioned areas of the Class B airspace area. In the past, safety has been maintained in the vicinity of the existing Denver Class B Airspace Area, in the face of steady activity growth, by procedural measures and aircraft metering changes. These measures have been successful in the past, as evidenced by a record of no midair collisions in the Class B airspace area. However, the FAA believes that these measures may not be adequate in the future. Without historical evidence of midair collisions in the Denver Class B Airspace Area, estimating the probability of a potential occurrence in the absence of this final rule cannot be determined with a reliable degree of certainty. In the absence of this final rule, aviation safety in the Denver Class B Airspace Area could deteriorate significantly, increasing the potential for catastrophic consequences, such as a midair collision between a large air carrier airplane and a GA airplane. This action is intended to significantly reduce the risk of those consequences, thereby enhancing aviation safety.

The final rule will also generate benefits by eliminating four nautical miles of Class B airspace west of the Jefferson County airport. The reduction in Class B airspace is intended to provide two types of benefits. First, the rule will reduce the distance aircraft operators flying under VFR will have to travel to circumnavigate the Class B

airspace area without concerns related to high terrain. The existing floor in this section of airspace is 7,000 feet MSL, which requires that nonparticipating aircraft pilots be very vigilant in flying over high terrain areas. VFR operators will be able to fly at higher altitudes when this section is removed from the Denver terminal airspace. Second, the rule will align areas near and in the Class B airspace area with better visual landmarks so that aircraft operators flying under VFR can stay clear of the Class B airspace area.

It is important to note that the Mode C and TCAS rules currently in effect share the same objective of lowering the risk of a midair collision as the alteration of the Denver Class B Airspace Area. Consequently, the safety benefits of this final rule and the Mode C and TCAS rules are inseparable and cannot be estimated independently of each other.

Conclusions

The benefits of the rule will be primarily in the form of enhanced safety to the aviation community and the flying public. The one-time cost of the rule will be $195,000 to revise the aeronautical charts for the Denver area. This cost will be borne solely by the FAA. The FAA could eliminate this cost by printing the charts during the routine printing-cycle, but this would entail delaying the opening of Denver International Airport. The cost of this delay would be considerably higher than $195,000. The FAA willingly incurs this charting cost to facilitate the opening of the new Denver International Airport. Thus, the FAA contends that this rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review final rules which may have "a significant economic impact on a substantial number of small entities." The small entities which could be potentially affected by the implementation of this final rule are unscheduled operators of aircraft for hire owning nine or fewer aircraft.

Only those unscheduled aircraft operators without the capability to operate under IFR conditions will be potentially impacted by this final rule. The FAA believes that all of the potentially impacted unscheduled aircraft operators are already equipped to operate under IFR conditions. This is because such operators fly regularly in airports where radar approach control services have been established. Therefore, the FAA believes this final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The final rule will neither have an effect on the sale of foreign aviation products or services in the United States, nor will it have an effect on the sale of U.S. products or services in foreign countries because the rule will neither impose costs on aircraft operators nor aircraft manufacturers (U.S. or foreign).

Federalism Implications

The regulation 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 regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this regulation 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. This rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A final regulatory evaluation of this rule, including a Regulatory Flexibility Determination and Trade Impact Assessment, 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 71

Airspace, Incorporation by reference, Navigation (Air).

14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 71 and 91 of the Federal Aviation Regulations (14 CFR parts 71 and 91) 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 3000—Subpart B—Class B Airspace

* * * * *

ANM CO B Denver, CO [Revised]
Denver International Airport (Primary Airport)
(lat. 39°51'38" N., long. 104°40'24" W.)
Denver VOR
(lat. 39°48'44" N., long. 104°39'36" W.)
Heckendorf Airport
(lat. 39°57'48" N., long. 104°44'57" W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 12,000 feet MSL beginning at the intersection of Bromley Lane and the 10-mile arc of the Denver VOR, thence clockwise along the 10-mile arc until the Denver 090° radial, extending west on the Denver 090° radial until Imboden Mile Road, thence south along Imboden Mile Road until I–70, extending west along I–70 until intercepting the 10-mile arc of the Denver VOR, extending clockwise along the 10-mile arc until Bromley Lane, and thence east along Bromley Lane to the point of beginning; excluding that airspace within a 1-mile radius of Heckendorf Airport.

Area B. That airspace extending upward from 7,500 feet MSL to and including 12,000 feet MSL within a 10-mile radius of the Denver VOR, bounded on the north by I–70 and bounded on the east by a line parallel to and 2 miles east of the Buckley Air National Guard Base Runway 14/32 centerline.

Area C. That airspace extending upward from 6,500 feet MSL to and including 12,000 feet MSL within a 10-mile radius of the Denver VOR bounded on the north by I–70, bounded on the east by Imboden Mile Road, and bounded on the west by a line parallel to and 2 miles east of Buckley Air National Guard Base Runway 14/32 centerline.

Area D. That airspace extending upward from 7,000 feet MSL to and including 12,000 feet MSL within a 10-mile radius of the Denver VOR bounded on the north by the Denver 090° radial and bounded on the west by Imboden Mile Road.

Area E. That airspace extending upward from 8,000 feet MSL to and including 12,000 feet MSL beginning at the Denver VOR 025° radial 15-mile DME fix, extending northeast

along the Denver 025° radial until intercepting the Denver VOR 20-mile arc, extending clockwise along the 20-mile arc until I–25, thence north along I–25 until Hampden Avenue, extending west along Hampden Avenue until Wadsworth Boulevard, thence north along Wadsworth Boulevard and Colorado Highway 287 until Colorado Highway 7, extending east along Colorado Highway 7 to I–25, thence north along I–25 until intercepting the Denver VOR 20-mile arc, extending clockwise along the 20-mile arc until intercepting the Denver VOR 329° radial, thence southeast along the Denver VOR 329° radial until intercepting the 15-mile arc, extending counterclockwise along the 15-mile arc until I–70 thence east along I–70 until intercepting the 10-mile arc, extending counterclockwise along the 10-mile arc until the Denver VOR 090° radial, extending east on the Denver 090° radial until intercepting the Denver 15-mile arc, and thence counterclockwise to the point of beginning.

Area F. That airspace extending upward from 7,000 feet MSL to and including 12,000 feet MSL between the 10- and 15-mile radius of the Denver VOR, bounded on the north by the Denver VOR 025° radial and bounded on the south by the Denver VOR 090° radial.

Area G. That airspace extending upward from 6,000 feet MSL to and including 12,000 feet MSL beginning at the Denver VOR 329° radial 10-mile fix, extending northwest on the Denver 329° radial until the 15-mile arc, thence clockwise along the 15-mile arc until the Denver 025° radial, extending south on the 025° radial until the 10-mile arc, and extending counterclockwise on the 10-mile arc until Bromley Lane, and thence west along Bromley Lane until the Denver VOR 10-mile arc thence to the point of beginning; including that airspace within a 1-mile radius of Heckendorf Airport.

Area H. That airspace extending upward from 7,000 feet MSL to and including 12,000 feet MSL between the 10- and 15-mile radius of the Denver VOR, bounded on the north by the Denver 329° radial and bounded on the south by I–70.

Area J. That airspace extending upward from 7,000 feet MSL to and including 12,000 feet MSL between the 15- and 20-mile radius of the Denver VOR, bounded on the west by the Denver VOR 329° radial and bounded on the east by the Denver VOR 025° radial.

Area K. That airspace extending upward from 10,000 feet MSL to and including 12,000 feet MSL beginning at the intersection of Hampden Avenue and I–25, extending south along I–25 until intercepting the Denver VOR 30-mile arc, extending clockwise along the 30-mile arc until a point 3 miles south of Waterton, CO (lat. 39°26'25" N., long. 105°05'42" W.) extending north to Waterton and Canyon Road (lat. 39°29'40" N., long. 105°05'42" W.), extending north along Canyon Road (Colorado Highway 75) until Wadsworth Boulevard, extending north along Wadsworth Boulevard until Hampden Avenue and extending east along Hampden Avenue to the point of beginning.

Area L. That airspace extending upward from 9,000 feet MSL to and including 12,000 feet MSL between the 20- and 30-mile radius of the Denver VOR bounded on the west by I–25 and bounded on the east by the Denver VOR 156° radial.

Area M. That airspace extending upward from 10,000 feet MSL to and including 12,000 feet MSL between the 20- and 30-mile radius of the Denver VOR, bounded on the north by the Denver VOR 025° radial and bounded on the south by the Denver VOR 156° radial.

Area N. That airspace extending upward from 8,000 feet MSL to and including 12,000 feet MSL between the 20- and 30-mile radius of the Denver VOR, bounded on the west by the Denver VOR 329° radial and bounded on the east by the Denver VOR 025° radial.

Area P. That airspace extending upward from 10,000 feet MSL to and including 12,000 feet MSL beginning at the Denver VOR 329° radial 20-mile DME fix, extending counterclockwise along the Denver VOR 20-mile arc until I–25, extending south along I–25 until Colorado Highway 7, thence west along Colorado Highway 7 until Colorado Highway 287, thence north along Colorado Highway 287 until intercepting the Denver VOR 30-mile arc, extending clockwise along the 30-mile arc until the Denver VOR 329° radial, and extending southeast along the Denver VOR 329° radial to the point of beginning.

* * * * *

PART 91—[AMENDED]

3. The authority citation for 14 CFR 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).

4. Special Federal Aviation Regulation No. 62, section 2, paragraph (7) is revised to read as follows:

Special Federal Aviation Regulation No. 62—Suspension of Certain Aircraft Operations from the Transponder with Automatic Pressure Altitude Reporting Capability Requirement

* * * * *

Section 2. * * *

(7) Airports within a 30-nautical-mile radius of the Denver International Airport.

Airport name	Arpt ID	Alt. (AGL)
Air Dusters Inc., Airport, Roggen, CO.	49CO	1,200
Bijou Basin Airport, Byers, CO.	CD17	1,200
Boulder Municipal Airport, Boulder, CO.	1V5	1,200
Bowen Farms No. 1 Airport, Littleton, CO.	CO98	1,200
Bowen Farms No. 2 Airport, Strasburg, CO.	3CO5	1,200
Carrera Airpark Airport, Mead, CO.	93CO	1,200
Cartwheel Airport, Mead, CO.	0CO8	1,200
Chaparral Airport, Byers, CO.	CO18	1,200
Colorado Antique Field Airport, Niwot, CO.	8CO7	1,200
Comanche Livestock Airport, Strasburg, CO.	59CO	1,200
Dead Stick Ranch Airport, Kiowa, CO.	18CO	1,200
Frederick-Firestone Air Strip Airport, Frederick, CO.	CO58	1,200
Frontier Airstrip Airport, Mead, CO.	84CO	1,200
Horseshoe Landings Airport, Keenesburg, CO.	CO60	1,200
Hoy Airstrip Airport, Bennett, CO.	76CO	1,200
J & S Airport, Bennett, CO.	CD14	1,200
Kostroski Airport, Franktown, CO.	43CO	1,200
Kugel-Strong Airport, Platteville, CO.	27V	1,200
Land Airport, Keenesburg, CO.	CO82	1,200
Lemons Private Strip Airport, Boulder, CO.	CO10	1,200
Lindys Airpark Airport, Hudson, CO.	7CO3	1,200
Parkland Airport, Erie, CO.	7CO0	1,200
Pine View Airport, Elizabeth, CO.	02V	1,200
Platte Valley Airport, Hudson, CO.	18V	1,200
Rancho De Aereo Airport, Mead, CO.	05CO	1,200
Reid Ranches Airport, Roggen, CO.	7CO6	1,200
Singleton Ranch Airport, Byers, CO.	68CO	1,200
Sky Haven Airport, Byers, CO.	CO17	1,200
Spickard Farm Airport, Byers, CO.	5CO4	1,200
Tri-County Airport, Erie, CO.	48V	1,200
Westberg-Rosling Farms Airport, Roggen, CO.	74CO	1,200
Yoder Airstrip Airport, Bennett, CO.	CD09	1,200

* * * * *

Issued in Washington, DC, on September 14, 1993.

David R. Hinson,

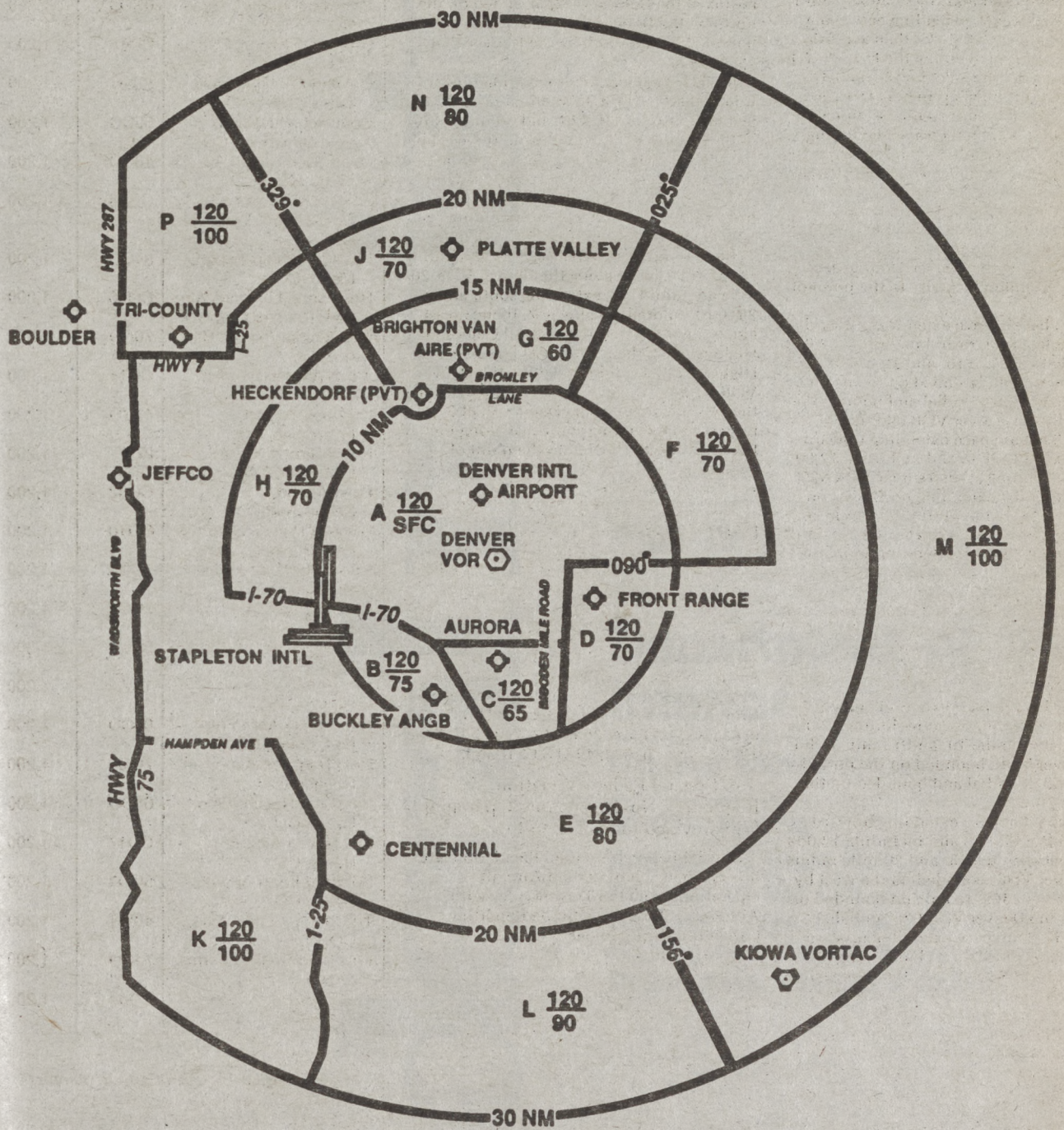
Administrator.

Appendix-Denver International Airport, Class B Airspace

Note: This Appendix will not appear in the Code of Federal Regulations.

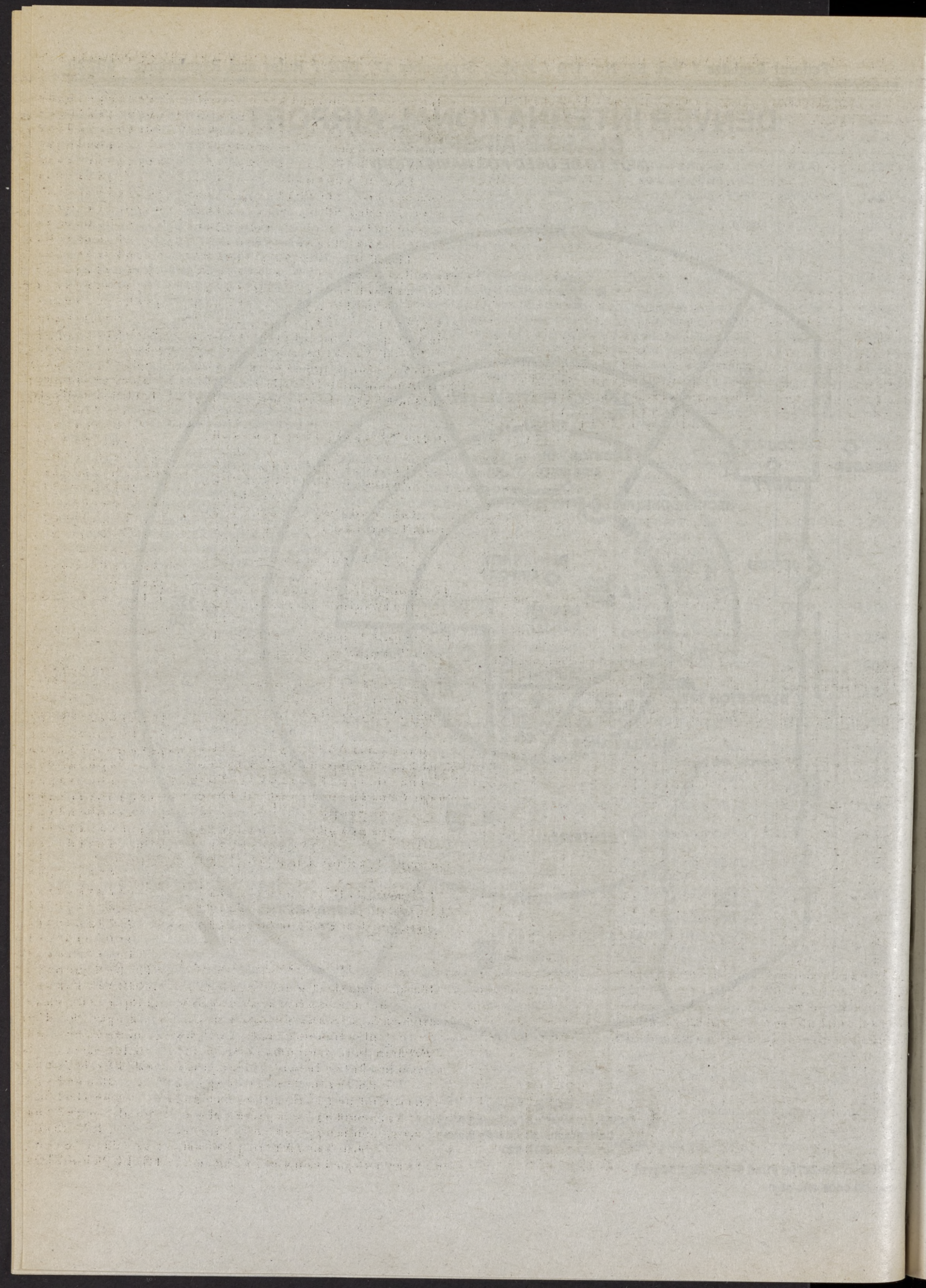
BILLING CODE 4910–13–M

DENVER INTERNATIONAL AIRPORT
CLASS B AIRSPACE
(NOT TO BE USED FOR NAVIGATION)



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Branch
ATP-220

[FR Doc. 93–22796 Filed 9–14–93; 2:38 pm]
BILLING CODE 4910–13–C



federal register

Friday
September 17, 1993

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32

Addition of Eight National Wildlife Refuges to the List of Open Areas for Hunting, Three to the List for Sport Fishing and Pertinent Refuge-Specific Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AB25

Addition of Eight National Wildlife Refuges to the List of Open Areas for Hunting, Three to the List for Sport Fishing and Pertinent Refuge-Specific Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add eight national wildlife refuges (NWR(s)) to the lists of open areas for migratory game bird hunting, upland game hunting, and/or big game hunting, three NWRs to the list for sport fishing and pertinent refuge-specific regulations for those activities. The Service has determined that such uses will be compatible with and, in some cases, enhance the purposes for which each refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource. In addition, these regulations are consistent with the new format which reorganizes all hunting and fishing regulations under one part.

DATES: Comments must be received on or before October 4, 1993.

ADDRESSES: Address comments to: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, U.S. Fish and Wildlife Service, Division of Refuges, MS 670 ARLSQ, 1849 C Street, NW., Washington, DC 20240; Telephone: 703–358–1744.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking opens eight refuges to hunting and three to sport fishing. All of the hunting and fishing programs included in this openings document have refuge-specific hunting or fishing regulations which are included in this rulemaking.

This rulemaking will also include Little Pend Oreille National Wildlife Refuge in the alphabetical listing under § 32.67 *Washington* as open to big game hunting without refuge-specific regulations. This refuge was opened to deer hunting in 1989 but was inadvertently delisted in last year's Code of Federal Regulations.

Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is the purpose of this proposed rulemaking to seek public input regarding the proposed opening of the refuges cited below to hunting or fishing. Accordingly, interested persons may submit written comments concerning this proposal to the Assistant Director—Refuges and Wildlife (Address above) by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges to hunting or fishing under this Act, the Secretary is required to determine that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

In preparation for these openings, the refuge units have included in their "openings packages" for Regional review and approval from the Washington Office the following documents: A hunting/fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI), or an Environmental Impact Statement and Record of Decision; a section 7 evaluation or statement that no endangered or threatened species exist on the refuge; a letter of concurrence from the affected States; and refuge-specific regulations, as provided herein. From a review of the totality of these documents, and for each refuge unit specifically, the Secretary determines that the opening of the areas to migratory game bird hunting, upland game hunting, big game hunting and sport fishing are compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Secretary has also determined that these openings for hunting and fishing are compatible and consistent with the primary purposes for which each of the refuges listed below was established, and that funds are available to administer the programs. The hunting and fishing programs will be generally within State and Federal (migratory game bird) regulatory frameworks. A brief description of the hunting and fishing programs follows:

Alamosa NWR is located in the San Luis Valley in south-central Colorado, 3 miles southeast of the City of Alamosa. It is administered as part of the Alamosa/Monte Vista National Wildlife Refuge Complex. The refuge is 11,169 acres in size and consists primarily of Rio Grande River bottomland. This large mountain valley at an elevation of 7,500 feet is an important waterfowl production area in spite of its southern location. The refuge is an important waterfowl breeding area with about 3,000 ducks and 200 geese produced annually. This refuge provides important migrational habitat for 500 to 700 sandhill cranes and up to 90 bald eagles. Colonial waterbird nesting colonies exist on the refuge and can include 750 white-faced ibis, black-crowned night herons, and snowy and cattle egret nests. The sport fishing program would open the southern portion of the refuge, about 5 miles, along the Rio Grande River to fishing from July 1 through September 30

annually in accordance with State of Colorado fishing regulations regarding species, bag and possession limits and methods. All fish species present would be open to fishing. No special refuge permit would be required. The fishing program would not be open during spring, early summer, or fall in order to protect waterfowl migration and production habitat. The designated fishing season would not significantly affect waterfowl production. The river does not have a high value for brood production and has little use by waterbirds during this time. A Section 7 consultation was conducted with a finding that the fishing program is not likely to adversely affect any threatened or endangered species. An environmental assessment concluded that no significant impact to the human environment would occur if the fishing program was instituted. The estimated cost for the fishing program is $1,000 and includes labor for informing the public with signing, answering questions, and extra law enforcement patrols. Once the fishing program is established, annual operating costs are estimated at approximately $700. This cost can be easily met with current refuge funding. Therefore, it is determined that for FY 94 funds are available for the development, operation, and maintenance of the program pursuant to the Refuge Recreation Act.

Browns Park National Wildlife Refuge is located in an isolated mountain valley in extreme northwestern Colorado. It lies along both sides of the Green River, entirely within Moffat County, 25 miles below Flaming Gorge Dam. It contains 13,455 acres of river bottomland and adjacent beachland. The winters are unusually mild for mountainous country, thereby providing winter haven for wildlife. There are three distinct land types on the refuge: (1) Steep, rocky mountain slopes, (2) alluvial beachlands, and (3) conglomerate sedimentary river bottomlands. Numerous species of ducks and Great Basin Canada geese nest on the refuge. The waterfowl population swells by the thousands during the spring and fall migrations. Wading birds, shorebirds, and a variety of raptors also use the refuge during various seasons. Resident species include mule deer, pronghorn antelope, rabbits, and sage grouse. Elk and bighorn sheep occasionally visit the refuge. Species having threatened or endangered status include the bald eagle, peregrine falcon, Colorado River squawfish, humpback chub, and bonytail chub. The mission of the refuge is to preserve, restore and manage a portion of the Green River and associated ecosystems for optimum wildlife resources and to provide compatible human benefits associated with its wildlife and wildlands. The refuge proposes to open to the hunting of elk. The refuge is already open to the hunting of waterfowl, cottontail rabbit and mule deer. Aerial surveys indicate increasing numbers of elk are using the refuge during the fall and winter months. Up to 200 elk were observed on the refuge during the winter of 1991–92. A separate compatibility determination has concluded that the hunting of elk would be compatible with the purposes for which the refuge was established. Furthermore, the elk population is not anticipated to be detrimentally impacted by the proposed hunt, because the refuge in included within two separate big game State Management Units which are subject to limited draw only. A separate section 7 evaluation under the Endangered Species Act has been done and a finding made that the program would not adversely affect any threatened or endangered species. An environmental assessment was done with a finding of no significant impact to the human environment. The initial cost for this hunt is approximately $1,000 and includes extra labor for informing the public with signing, writing an information sheet, answering questions and for extra law enforcement. Once established, the operating costs of the hunt are estimated at about $700 annually, which is well within the refuge's operational budget and, thus, there are sufficient funds available for the development, operation, and maintenance of this program as required by the Refuge Recreation Act.

Cypress Creek NWR, located in southern Illinois, was established as an inviolate sanctuary, or for any other management purpose, for migratory birds and for the conservation of wetlands. The refuge is one component in the Cache River Wetlands system which, when fully acquired, will include nearly 60,000 acres. The refuge, as acquired to date, consists of approximately 3,800 acres of bottomland hardwood forests associated with riverine wetlands. The parcels which make up the refuge lend themselves well to hunting, especially for waterfowl and upland game such as bob-white quail, cottontail rabbit, squirrel, mourning dove and white-tailed deer. These species are considered the target species for the refuge hunting plan. The hunting program objectives provide a minimum of 200–500 hunter use days on applicable areas opened to hunting. These areas have been determined to be compatible with refuge purposes and objectives and that are in conformance with State regulations. The hunting program will also integrate species specific recommendations for management as determined by the various resource agencies involved in the project. Specifically, the hunt program will control the large build-up of wintering populations of Canada geese. Without such control, large goose build-ups are inevitable and could interrupt existing distribution strategies that have been agreed upon by State and flyway groups. Also, the white-tailed deer populations must be controlled to ensure disease free herds and to facilitate the reforestation project on the refuge. Additionally, the hunt program would provide public opportunities for outdoor recreation. An environmental assessment was completed with a finding of no significant impact to the human environment. A section 7 consultation resulted in a finding that the program would not adversely affect any threatened or endangered species. In addition, a separate compatibility determination concluded that the program would be compatible with the primary purposes of the refuge. Funding for the hunting program will be a part of the refuge's operation and maintenance fund which is approximately $250,000 annually. It is anticipated that the hunting program will require one man-month (refuge wildlife biologist) at a cost to the Service of $3,640 annually. Therefore, it is determined that there are sufficient funds available for the development, operation, and maintenance of the program as required by the Refuge Recreation Act.

Meredosia NWR comprises 2,216 acres of Meredosia Island, Meredosia Lake, and floodplain habitat. The refuge proposes to open to sport fishing in designated areas of the refuge. Historically known for waterfowl habitat, this refuge is located in Cass and Morgan Counties, Illinois, nine miles south of Beardstown and immediately north of Meredosia, Illinois. The refuge was established in 1973 as an inviolate sanctuary for waterfowl. Prior to this establishment, the lands had been used (since 1922) as a hunt club and waterfowl sanctuary. The refuge rests on the river floodplain and consists of 1,802.3 acres of floodplain forest, 150 acres in most soil units, 161 acres of former cropland in various stages of natural regeneration, 72 acres in cropland and 25.5 acres of meadow. There are 5.2 miles of river

bank and lake shore habitat. Sport fishing activities will occur primarily at the southern end of the refuge on recently acquired land. Sport fishing is made compatible with the established refuge purposes by closing migratory bird use areas to the public during critical periods. Sport fishing is an opportunity that will facilitate the revival of the Meredosia wetland complex as a multi-purpose natural area available for public use. One of the objectives of the refuge is to provide environmental education and other compatible public use opportunities to the public. The refuge could provide excellent opportunities for people to experience and appreciate a river floodplain ecosystem. These public initiatives will be set into motion whenever permission is granted for the sport fishing program. A separate compatibility determination concluded that the program would be compatible with the primary purposes of the refuge. An environmental assessment resulted in a finding of no significant impact to the human environment. In addition, a section 7 consultation under the Endangered Species Act concluded that the program would not adversely affect any threatened or endangered species. The minimal staff effort and associated administrative costs required to facilitate a sport fishing program on the refuge will cause no administrative conflicts with refuge operations and are sufficient to develop, operate, and maintain the program. This program is, therefore, in compliance, with the Refuge Recreation Act.

Driftless Area NWR was established in October 1989 to protect the endangered Iowa Pleistocene snail and the threatened northern wild monkshood plant. These two species along with other rare snails and plants, are found almost exclusively on certain cool, moist, shaded slopes and cliffs, many of which are called algific talus slopes. The refuge proposes that limited upland game and big game hunting and sport fishing be allowed on designated areas of the refuge. The refuge consists of approximately 506 acres of scattered parcels in three northeast Iowa counties. As planned, the refuge may expand to include tracts in southwest Wisconsin, southeast Minnesota and northwest Illinois. Casual hunting and sport fishing were allowed on these lands prior to its establishment as a refuge. All limited hunting and fishing would occur away from the algific talus slopes where the rare species occur, and in designated buffer zones where no rare species are located. The refuge units to be opened for hunting are relatively small, 204 and 209 acres, and have sufficient off-slope buffer zones where hunter use is compatible. The specific areas to be opened for hunting are the Howard Creek Unit and the Fern Ridge Unit in Clayton County. The units opened to fishing will be the Fern Ridge Unit and Steele's Branch Unit in Clayton County. The sites are not expected to receive heavy use as they are not located near large population centers. Species available for hunting include white-tailed deer, cottontail rabbit, eastern grey squirrel, eastern fox squirrel, woodchuck, raccoon, opossum, coyote, red fox, grey fox, wild turkey, ring-necked pheasant, grey partridge, ruffed grouse, woodcock, American crow and rock dove. Because of extraordinarily high deer densities, the potential for detrimental impact on the endangered species through browsing and trampling is high. A section 7 consultation has been completed, with concurrence by the Rock Island Ecological Services Field Office, indicating that these activities will not adversely affect the listed species. A separate compatibility determination was completed with stipulations regarding seasons, hunting restrictions, firearms, the use of horses, and facilities. With the stipulations, it was determined that the proposed hunting and fishing activities would be compatible with the conservation of the rare species. An environmental assessment concluded that there would be no significant impact on the human environment. No additional funding or staffing will be needed to administer the program. Occasional law enforcement patrols will be conducted concurrent with other management functions. There are sufficient funds and personnel, therefore, to develop, operate, and maintain this program as required by the Refuge Recreation Act.

Patuxent Wildlife Research Center (Center) is a 12,800 acre facility located approximately between Baltimore, Maryland and Washington, DC, in Anne Arundel and Prince Georges counties, Maryland. The Patuxent River roughly bisects the property. The area proposed for hunting of migratory game birds, upland game and big game (deer) consists of a 8,100 acre tract, known as the North Tract, which was transferred to the Center by the U.S. Army in 1991. Long-term wildlife research studies of migratory birds, environmental contaminants and endangered species are the primary purposes and objectives of the North Tract. The North Tract comprises a large contiguous forest (approximately 6,400 acres) in the coastal plain of Central Maryland. This forest is directly connected to the large forested acreage of the original Patuxent Wildlife Research Center, Beltsville Agricultural Research Center, NASA Goddard Space Flight Center, National Park Service and Secret Service tracts to the south and west. Together these largely forested lands constitute the largest (20,000+ acres) contiguous forest or "greenway" in the coastal plain of Maryland. The proposed hunting program on the North Tract would be managed to provide the public with a high quality wildlife oriented activity and an opportunity to explore the Nation's valuable and renewable wildlife resources. Only harvestable surpluses of animals will be taken. Wildlife populations will not be allowed to experience overall decline by the conduct of sport hunting, with the exception of deer. Deer populations may be reduced to maintain the carrying capacity of their habitat. Prior to the transfer of the North Tract to the Center, this area was open to the public for hunting for over 30 years. The proposed hunts would ensure that wildlife levels and good conservation management principles are followed. The hunting program will be so carefully controlled that locations and numbers of hunters in the field will be known at the Hunting Control Point. Participants in approved public use activities will be required to check in with Hunting Control so potential conflicts are avoided. A separate Section 7 consultation under the Endangered Species Act was completed with a finding of no adverse affect on any threatened or endangered species. An environmental assessment concluded that the program would have no significant impact on the human environment. A compatibility determination also found that the program would be compatible with the primary purposes of the refuge. Funding to continue public hunting on the North Tract will be provided exclusively by hunting permit fees. There are, therefore, sufficient funds to develop, operate, and maintain the program in compliance with the Refuge Recreation Act.

Wallkill River NWR is located in the Townships of Wantage, Vernon and Hardyston in Sussex County, New Jersey and Warwick Township in Orange County, New York. The refuge was established, in large part, to serve as a key link in New Jersey's planned Greenway system for the northern part of the State. The refuge includes approximately nine miles of the Wallkill River. The Wallkill River bottomlands of Sussex County, New Jersey, are one of the few, high quality waterfowl

concentration areas remaining in the northwestern portion of the State. It is also unique as a wildlife habitat due to its expansive wetlands and great diversity of species it supports, including nineteen of the State's listed threatened and endangered species. The refuge lies within two physiographic provinces—the Appalachian Valley and Ridge Province—which encompass the Kittatinny Mountain Range to the west and the Highland Ridge System Province to the east. The Wallkill bottomlands have been farmed and mined for decades. The refuge will protect 4,200 acres of freshwater wetlands and 3,300 acres of adjacent upland when acquisition is completed. Wetland habitat types include 1,600 acres of palustrine forest, 1,500 acres of emergent marsh, 600 acres of wet meadow, 400 acres of scrub-shrub marsh, and 100 acres of open water. Upland habitat types include 2,500 acres of agricultural land and 800 acres of mixed hardwood. Resident wildlife is composed of a variety of game and non-game species of birds, mammals, fish and amphibians. Furbearers include beaver, muskrat, mink, and raccoon. Black bear and bobcat are also known to occur occasionally on the refuge. The refuge proposes to open hunting of deer in designated areas of its properties. Deer are abundant throughout the refuge. State deer biologists estimate a deer density of approximately 35 deer per square mile in Sussex County's Deer Management Zone 2, of which Wallkill is a part. This is slightly higher than the Statewide mean pre-season density of 31 deer per square mile. The deer population in the area is stable at the present time. The number of hunters expected to use the area is relatively small and should not have any significant impact on the wildlife populations on the refuge. As determined in a separate compatibility determination, hunting of deer is compatible with the purposes for which the refuge was established. A separate section 7 consultation under the Endangered Species Act was completed with a finding that the program would have no adverse affect on any threatened or endangered species. An environmental assessment found that the program would have no significant impact on the human environment. Initial costs to open the refuge to hunting are estimated to be about $7,000, including the cost of administering the first hunting season. Costs will decrease in subsequent years, with an anticipated annual operating cost of about $4,700. There are, therefore, sufficient funds available with the annual operating budget of $178,300 to conduct this hunt. There are, accordingly, sufficient funds to develop, operate, and maintain the program pursuant to the Refuge Recreation Act.

Des Lacs NWR is located in northwest North Dakota, approximately 50 miles north of Minot and 90 miles east of the Montana state line. The long, narrow riverine refuge extends 26 miles in length from the Canadian border to 8 miles south of Kenmare, North Dakota. The refuge includes all of the main water areas and adjacent uplands along this stretch of the Des Lacs valley in Burke and Ward Counties. The topography is characterized by adjacent grass uplands descending a hundred feet into the river valley interspersed with numerous wooded draws and coulees. The refuge consists of 19,544 acres, including 13,600 acres of upland, 5,014 acres of open water, 700 acres of marsh, and 230 acres of wooded coulees. The refuge was established in 1935 as a breeding ground for migratory birds and other wildlife. The refuge is an important waterfowl breeding and migration area in the Prairie Pothole Region. An average of 4,000–5,000 ducks and 50–150 Giant Canada geese are produced annually. Resting use during fall migration is significant with a peak of 200–300,000 snow geese and up to 50,000 ducks using the refuge. The Des Lacs Hunting Plan was completed in 1985 and currently allows the hunting of white-tailed deer. This proposed opening would add the hunting of upland game birds, rabbits and fox to that plan. Populations of upland game birds, rabbits and fox are sufficient in all but the most severe winter weather conditions, to sustain refuge objectives of maintaining viable populations of these species of resident wildlife. The proposed timing of the hunts would avoid conflicts with other refuge objectives because: (1) All waterfowl would have left the refuge due to all wetlands freezing over; (2) virtually no endangered species will be present in the area except for an occasional bald eagle or peregrine falcon, because their primary food source, waterfowl, are not present; and (3) use of refuge roads for wildlife observation is virtually non-existent due to winter weather and poor road conditions due to snow drifts. A separate section 7 consultation under the Endangered Species Act was completed which determined that the program would have no adverse affect on any threatened or endangered species. A compatibility determination found that the proposed hunt program is compatible with the primary purposes of the refuge. An environmental assessment was completed on the program with a finding of no significant impact to the human environment. The estimated initial cost for this hunt is $1,000 and includes labor for additional signing, administration and law enforcement. Once the hunt becomes established, annual operating costs are estimated at $500. These new costs can be met readily with current funding levels and are sufficient to develop, operate, and maintain the program in compliance with the Refuge Recreation Act.

J. Clark Salyer NWR, is located along the Souris River in Bottineau and McHenry Counties of north-central North Dakota. The 58,693 acre refuge extends from the Manitoba border southward for approximately 45 miles. The entire refuge lies within an area which was once Glacial Lake Souris. The surrounding area is old lake bottom with extremely flat topography and a high density of temporary wetlands. While a primary objective of the refuge is waterfowl production, the area has a very diverse population of other bird species. More than 250 species have been noted, including sharp-tailed grouse, Swainson's hawks, a wide variety of waterbirds, and relatively rare small birds such as Sprague's pipits and Baird's and LeConte's sparrows. Endangered or threatened species such as the bald eagle, peregrine falcon and piping plover have been recorded. White pelicans are present on the refuge all summer, while thousands of sandhill cranes, tundra swans and snow geese use the refuge as a feeding and resting area during migration. White-tailed deer, red fox, coyote, raccoon, mink, muskrat, beaver, porcupine and striped skunk are abundant. It is proposed that the refuge open itself to fox hunting. The refuge is already open to upland game hunting of pheasant, partridge, grouse and turkey. Red fox populations have adapted well to an environment modified by agricultural activity and their populations are higher than historical level. Red fox are a major cause of duck nest loss and kill many nesting hens on the refuge and other parts of the Prairie Pothole Region of North America. The fox populations have remained high in the State despite liberal hunting and trapping regulations. Opening the refuge to fox hunting would fulfill a demand for predator hunting in the winter and achieve management objectives in harvesting surplus animals. A separate section 7 consultation under the Endangered Species Act found that the program would not adversely affect any

threatened or endangered species. A compatibility determination found that the hunt program would be compatible with the primary purposes of the refuge. In addition, an environmental assessment found that the program would present no significant impact to the human environment. The hunt can be administered along with other refuge hunts and activities with little or no added costs. Therefore, there are sufficient funds to develop, operate, and maintain this program and in compliance with the Refuge Recreation Act.

Eastern Shore of Virginia NWR, was established in August 1984, and is located at the southern terminus of the Delmarva Peninsula in Northampton County, Virginia. At present, the refuge encompasses 548 acres, 57 of which lie to the west of Route 13 and the remaining 491 lie to the east of this highway. The refuge proposes to open a big game (white-tailed deer) hunt. Five hunting zones totaling 500 acres will be open for public deer hunting. Permits will be required and will specify conditions for each type of hunt in each of the five hunting zones. One of the primary objectives of the refuge is to maintain healthy populations of wildlife. Deer populations are now at or above carrying capacity of the refuge habitat. Over or under harvest will be prevented by annual adjustments to the hunting program. The number of hunt days, the hunt zones, and the numbers of hunters per zone can be increased or decreased. This hunting plan initiates deer hunting as a means of keeping deer populations in balance with refuge habitat, while also providing public outdoor recreation benefits. Hunting has been found to be compatible with the primary purpose of the refuge. A separate section 7 consultation under the Endangered Species Act found that the program would not adversely affect any threatened or endangered species. In addition, an environmental assessment found that the program would present no significant impact to the human environment. There are sufficient funds to develop, operate, and maintain this program and, accordingly, this hunt program would be in compliance with the Refuge Recreation Act.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. It is estimated that opening these refuges to hunting and fishing will generate substantially less than $100 million.

With respect to small entities, this rule will have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. The openings will provide recreational opportunities and generate economic benefits that may not now exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal Government of law enforcement, posting, and other actions needed to implement activities under this rule will be considerably less than the income generated from the implementation of these hunting and sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), environmental assessments have been prepared for these openings. Based upon the Environmental Assessments, the Service issued Findings of No Significant Impact with respect to the openings. Section 7 evaluations were prepared pursuant to the Endangered Species Act. These documents are available for public inspection and copying in room 670, 4401 North Fairfax Drive, Arlington, Virginia, or by mail, at the address listed in the section **ADDRESSES** above.

Duncan L. Brown, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of title 50 of the Code of Federal Regulations is amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

2. Section 32.7 is amended by adding alphabetically "Cypress Creek National Wildlife Refuge" and "Meredosia National Wildlife Refuge" under Illinois; "Driftless Area National Wildlife Refuge" under Iowa; "Patuxent Wildlife Research Center" under Maryland; "Wallkill River National Wildlife Refuge" under New Jersey; "Eastern Shore of Virginia National Wildlife Refuge" under Virginia; and "Little Pend Oreille National Wildlife Refuge" under Washington.

3. Section 32.25 *Colorado* is amended by adding text to paragraph D. of the Alamosa National Wildlife Refuge; and by adding text to paragraph C. of Browns Park National Wildlife Refuge to read as follows:

§ 32.25 Colorado.

* * * * *

Alamosa National Wildlife Refuge

* * * * *

D. Sport Fishing. Fishing is permitted on designated areas of the refuge subject to the following conditions:

1. The fishing season is July 1 through September 30.

2. Fishing activity is limited to daylight use only.

* * * * *

Browns Park National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunting of mule deer and elk is permitted on designated areas of the refuge subject to the following conditions:

1. Elk hunting shall be governed by State hunting rules and regulations specific to the taking of elk within the State of Colorado.

2. Two safety and buffer zones will be closed to hunting to protect the refuge and private facilities, as identified by the refuge manager as those areas closed to the hunting of mule deer and cottontail rabbit.

* * * * *

4. Section 32.32 *Illinois* is amended by adding Cypress Creek National Wildlife Refuge and Meredosia National Wildlife Refuge to the alphabetical listing to read as follows:

§ 32.32 Illinois.

* * * * *

Cypress Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of migratory birds is permitted on designated areas of the refuge subject to the following conditions:

1. Boats, decoys and blinds must be removed from the refuge at the conclusion of each day's hunt.

2. Only goose hunting is allowed in the area known as the "Ducks Unlimited Area."

3. Hunters must check in and out of the refuge each day of hunting.

B. Upland Game Hunting. Hunting of bobwhite quail, rabbit, raccoon, opossum, coyote, red fox and grey fox is permitted on designated areas of the refuge subject to the following conditions:

1. Hunters must check in and out of the refuge each day of hunting.

2. No hunting after sunset is permitted.

C. Big Game Hunting. Hunting of whitetailed deer is permitted on designated areas of the refuge subject to the following condition: Hunters must check in and out of the refuge each day of hunting.

D. Sport Fishing. [Reserved]

* * * * *

Meredosia National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. Fishing is permitted on designated areas of the Meredosia National Wildlife Refuge subject to the following conditions:

1. Fishing is permitted from February 16 through October 15 on all refuge waters, from boat or from the bank.

2. From October 16 through February 15, fishing is permitted south of Carver Lake by foot access only.

3. Fishing is allowed during daylight hours only.

* * * * *

5. Section 32.34 *Iowa* is amended by adding Driftless Area National Wildlife Refuge to the alphabetical listing to read as follows:

§ 32.34 Iowa.

* * * * *

Driftless Area National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only between November 1 and the close of State established seasons, or January 15, whichever comes first.

C. Big Game Hunting. Hunting of whitetailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Hunting is permitted only between November 1 and the close of State established seasons, or January 15, whichever comes first.

2. Hunting is restricted to archery and muzzleloader use only.

3. Construction or use of permanent blinds, platforms or ladders is not permitted.

4. All stands must be removed from the refuge at the end of the day's hunt.

5. Hunting in areas posted "Closed Area" is strictly prohibited.

6. Firearms are permitted only during an open hunting season.

7. Horses or other hoofed animals are prohibited.

D. Sport Fishing. Fishing is permitted on designated areas of the refuge.

* * * * *

6. Section 32.39 *Maryland* is amended by adding Patuxent Wildlife Research Center to the alphabetical listing to read as follows:

§ 32.39 Maryland.

* * * * *

Patuxent Wildlife Research Center

A. Hunting of Migratory Game Birds. Hunting of migratory birds is permitted on designated areas of the Center subject to the following conditions:

1. Seasonal permit is required.

2. A fee is required for issuance of a seasonal permit.

3. The use of a retriever is mandatory on any impounded waters. Retrievers shall be of the traditional breeds, such as Chesapeake Bay, Golden, etc.

4. Dogs observed running loose or unattended in unauthorized areas shall be subject to seizure by law enforcement officers.

B. Upland Game Hunting. Hunting of upland game is permitted on designated areas of the Center subject to the following conditions:

1. Seasonal permit is required.

2. A fee is required for issuance of a seasonal permit.

3. Hunting of upland game is suspended during the firearm deer season.

4. Hunters must wear in a conspicuous manner on head, chest and back, a minimum of 400 square inches of solid-colored hunter orange clothing or material.

5. Dogs observed running loose or unattended in unauthorized areas shall be subject to seizure by law enforcement officers.

C. Big Game Hunting. Hunting of deer is permitted on designated areas of the Center subject to the following conditions:

1. Seasonal permit is required.

2. A fee is required for issuance of a seasonal permit.

3. Validation of hunter safety proficiency test is required.

4. Dogs are not permitted.

5. No hunting with black powder handguns will be permitted.

6. Possession of rifled slug or pumpkin ball is permitted only during the firearm deer season. Use of buckshot is strictly prohibited.

7. Only shotguns loaded with rifled slug or pumpkin ball and black powder rifles, 40 caliber or larger, with not less than 60 grains of black powder or equivalent in Pyrodex, shall be used for hunting deer during the firearm deer season.

8. During the firearm deer season, the use of bow and arrow is prohibited.

9. Hunting of upland game is suspended during the firearm deer season.

10. Hunters must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material. Bow hunters must follow this requirement when moving to and from the deer stand, but are not required to wear hunter orange when positioned to hunt.

11. Only portable deer stands with safety belts are permitted. Safety belts must be worn while in the stand.

D. Sport Fishing. [Reserved]

7. Section 32.49 *New Jersey* is amended by adding the alphabetical listing of Wallkill River National Wildlife Refuge to read as follows:

§ 32.49 New Jersey.

* * * * *

Wallkill River National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. Hunting of whitetailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Refuge hunting hours are concurrent with State hunting hours. Hunters may enter the refuge no earlier than two hours before shooting time and leave no later than one hour after the end of shooting hours.

2. Hunters must wear in a conspicuous manner at least 400 square inches of hunter orange on their person.

3. Only portable tree stand may be used and must be removed from the refuge each day.

D. Sport Fishing. [Reserved]

8. Section 32.66 *Virginia* is amended by adding the alphabetical listing of Eastern Shore of Virginia National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

* * * * *

Eastern Shore of Virginia National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

1. Permits are required.

2. Only shotguns, 20 gauge or larger, loaded with buckshot, and bow and arrow are permitted.

3. Dogs are not permitted.

4. Only portable tree stands may be used and must be removed at the end of each hunt day.

5. Shotgun hunters must wear, in a conspicuous manner, on head, chest, and back, a minimum of 400 square inches of solid-colored orange clothing or material.

D. Sport Fishing. [Reserved]

* * * * *

9. Section 32.53 *North Dakota* is amended by adding text to paragraph B. of Des Lacs National Wildlife Refuge; and by adding text to paragraph B. of J. Clark Salyer National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

* * * * *

Des Lacs National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of ring-necked pheasants, sharp-tailed grouse, gray partridge, cottontail rabbit, jackrabbits, snowshoe hares and fox is permitted on designated areas of the refuge subject to the following conditions:

1. Only nontoxic shot or falconry may be used.

2. Upland game birds and rabbit shotgun season is from December 1 through the end of the State season.

3. The upland game bird and rabbit falconry season is from December 1 through March 31.

* * * * *

J. Clark Salyer National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunting of pheasant, partridge, grouse, turkey and fox is permitted on designated areas of the refuge subject to the following conditions:

1. Fox hunting opens annually on the day following the close of the regular firearms deer season and closes on March 31.

2. Fox hunting is closed from 1/2 hour after sunset until 1/2 hour before sunrise.

* * * * *

10. Section 32.67 *Washington* is amended by adding the alphabetical listing of Little Pend Oreille National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

Little Pend Oreille National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge.

D. Sport Fishing. [Reserved]

* * * * *

Dated: August 11, 1993.

Richard N. Smith,

Acting Director.

[FR Doc. 93–22633 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–55–P

federal register

Friday
September 17, 1993

Part V

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for June 1993

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–53168; FRL–4636–5]

Premanufacture Notices; Monthly Status Report for JUNE 1993

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for June 1993.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Noncofidential Information Center (NCIC) ETG–102 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "[OPPTS–53168]" and the specific PMN and exemption request number should be sent to: Document Control Office (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099, Washington, DC 20460, (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC., 20460, (202) 260–3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during June; (b) PMNs received previously and still under review at the end of June; (c) PMNs for which the notice review period has ended during June; (d) chemical substances for which EPA has received a notice of commencement to manufacture during June; and (e) PMNs for which the review period has been suspended. Therefore, the June 1993 PMN Status Report is being published.

Dated: September 7, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for June 1993

I. 147 Premanufacture notices and exemption requests received during the month:

PMN No.

P 93–1079 P 93–1080 P 93–1081 P 93–1082
P 93–1083 P 93–1084 P 93–1085 P 93–1086
P 93–1087 P 93–1088 P 93–1089 P 93–1090
P 93–1091 P 93–1092 P 93–1093 P 93–1094
P 93–1095 P 93–1096 P 93–1097 P 93–1098
P 93–1099 P 93–1100 P 93–1101 P 93–1102
P 93–1103 P 93–1104 P 93–1105 P 93–1106
P 93–1107 P 93–1108 P 93–1109 P 93–1110
P 93–1111 P 93–1112 P 93–1113 P 93–1114
P 93–1115 P 93–1116 P 93–1117 P 93–1118
P 93–1119 P 93–1120 P 93–1121 P 93–1122
P 93–1123 P 93–1124 P 93–1125 P 93–1126
P 93–1127 P 93–1128 P 93–1129 P 93–1130
P 93–1131 P 93–1132 P 93–1133 P 93–1134
P 93–1135 P 93–1136 P 93–1137 P 93–1138
P 93–1139 P 93–1140 P 93–1141 P 93–1142
P 93–1143 P 93–1144 P 93–1145 P 93–1146
P 93–1147 P 93–1148 P 93–1149 P 93–1150
P 93–1151 P 93–1152 P 93–1153 P 93–1154
P 93–1155 P 93–1156 P 93–1157 P 93–1158
P 93–1159 P 93–1160 P 93–1161 P 93–1162
P 93–1163 P 93–1164 P 93–1165 P 93–1166
P 93–1167 P 93–1168 P 93–1169 P 93–1170
P 93–1171 P 93–1172 P 93–1173 P 93–1174
P 93–1175 P 93–1177 P 93–1178 P 93–1179
P 93–1180 P 93–1181 P 93–1182 P 93–1183
P 93–1184 P 93–1185 P 93–1186 P 93–1187
P 93–1189 P 93–1190 P 93–1191 P 93–1192
P 93–1193 P 93–1194 P 93–1195 P 93–1196
P 93–1197 P 93–1198 P 93–1200 P 93–1206
P 93–1207 P 93–1208 P 93–1209 P 93–1210
P 93–1211 P 93–1212 P 93–1213 P 93–1214
P 93–1215 P 93–1216 P 93–1217 P 93–1218
P 93–1219 P 93–1220 Y 93–0156 Y 93–0157
Y 93–0158 Y 93–0159 Y 93–0160 Y 93–0161
Y 93–0162 Y 93–0163 Y 93–0164 Y 93–0165
Y 93–0166 Y 93–0167 Y 93–0170

II. 223 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 84–0660 P 84–0704 P 85–0619 P 85–0941
P 86–0066 P 86–1315 P 86–1648 P 87–0323
P 88–0998 P 88–0999 P 88–1937 P 88–1938
P 88–1980 P 88–1982 P 88–1984 P 88–1985
P 88–2484 P 88–2518 P 89–0632 P 89–0650
P 89–0721 P 89–0775 P 89–0957 P 89–0958
P 89–0959 P 89–0963 P 89–1038 P 89–1058
P 90–0158 P 90–0263 P 90–0372 P 90–0550
P 90–0558 P 90–0564 P 90–0581 P 90–0608
P 90–1358 P 90–1422 P 90–1527 P 90–1564
P 90–1592 P 90–1840 P 91–0043 P 91–0572
P 91–0619 P 91–0659 P 91–0689 P 91–0818
P 91–0826 P 91–0914 P 91–0915 P 91–0939
P 91–0940 P 91–0941 P 91–1009 P 91–1010
P 91–1014 P 91–1015 P 91–1131 P 91–1206
P 91–1210 P 91–1324 P 91–1386 P 91–1394
P 91–1409 P 92–0003 P 92–0031 P 92–0032
P 92–0033 P 92–0048 P 92–0129 P 92–0314
P 92–0343 P 92–0344 P 92–0477 P 92–0478
P 92–0606 P 92–0649 P 92–0714 P 92–0787
P 92–0804 P 92–0919 P 92–1003 P 92–1125
P 92–1222 P 92–1255 P 92–1294 P 92–1295
P 92–1296 P 92–1298 P 92–1307 P 92–1308
P 92–1324 P 92–1337 P 92–1345 P 92–1352
P 92–1357 P 92–1364 P 92–1369 P 92–1489
P 92–1503 P 92–1504 P 93–0014 P 93–0017
P 93–0040 P 93–0066 P 93–0067 P 93–0068
P 93–0094 P 93–0122 P 93–0123 P 93–0124
P 93–0126 P 93–0168 P 93–0177 P 93–0184
P 93–0185 P 93–0186 P 93–0187 P 93–0188
P 93–0189 P 93–0190 P 93–0204 P 93–0212
P 93–0213 P 93–0214 P 93–0215 P 93–0227
P 93–0250 P 93–0251 P 93–0252 P 93–0253
P 93–0254 P 93–0255 P 93–0256 P 93–0257
P 93–0277 P 93–0282 P 93–0307 P 93–0313
P 93–0314 P 93–0315 P 93–0316 P 93–0339
P 93–0343 P 93–0352 P 93–0353 P 93–0360
P 93–0362 P 93–0364 P 93–0374 P 93–0375
P 93–0418 P 93–0438 P 93–0480 P 93–0483
P 93–0498 P 93–0505 P 93–0507 P 93–0512
P 93–0532 P 93–0533 P 93–0553 P 93–0555
P 93–0561 P 93–0568 P 93–0572 P 93–0578
P 93–0603 P 93–0627 P 93–0633 P 93–0637
P 93–0652 P 93–0658 P 93–0698 P 93–0699
P 93–0701 P 93–0718 P 93–0720 P 93–0721
P 93–0722 P 93–0723 P 93–0724 P 93–0725
P 93–0726 P 93–0731 P 93–0732 P 93–0733
P 93–0734 P 93–0735 P 93–0761 P 93–0832
P 93–0853 P 93–0854 P 93–0855 P 93–0856
P 93–0857 P 93–0858 P 93–0880 P 93–0881
P 93–0896 P 93–0936 P 93–0937 P 93–0941
P 93–0955 P 93–0959 P 93–0964 P 93–0989
P 93–1022 P 93–1025 P 93–1026 P 93–1027
P 93–1028 P 93–1039 P 93–1043 P 93–1047
P 93–1053 P 93–1054 P 93–1057 P 93–1069
P 93–1070 P 93–1071 Y 93–0109

III. 163 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 88–1999 P 88–2000 P 88–2001 P 90–0261
P 90–0262 P 91–0107 P 91–0108 P 91–0109
P 91–0110 P 91–0111 P 91–0112 P 91–0113
P 91–0242 P 91–0243 P 91–0244 P 91–0245
P 91–0246 P 91–0247 P 91–0248 P 91–0503
P 91–0548 P 91–0701 P 92–0031 P 92–0032
P 92–0033 P 92–0217 P 92–0471 P 92–0776
P 92–0777 P 93–0317 P 93–0318 P 93–0476
P 93–0577 P 93–0624 P 93–0625 P 93–0626
P 93–0628 P 93–0629 P 93–0630 P 93–0631
P 93–0632 P 93–0634 P 93–0635 P 93–0636
P 93–0638 P 93–0639 P 93–0640 P 93–0641
P 93–0642 P 93–0643 P 93–0644 P 93–0645
P 93–0646 P 93–0647 P 93–0648 P 93–0649
P 93–0650 P 93–0651 P 93–0653 P 93–0654
P 93–0655 P 93–0656 P 93–0657 P 93–0658
P 93–0659 P 93–0660 P 93–0661 P 93–0662
P 93–0663 P 93–0664 P 93–0665 P 93–0666
P 93–0667 P 93–0668 P 93–0669 P 93–0670
P 93–0671 P 93–0672 P 93–0673 P 93–0674
P 93–0675 P 93–0676 P 93–0677 P 93–0678
P 93–0679 P 93–0680 P 93–0681 P 93–0682
P 93–0683 P 93–0684 P 93–0685 P 93–0686
P 93–0687 P 93–0688 P 93–0689 P 93–0690
P 93–0691 P 93–0692 P 93–0694 P 93–0695
P 93–0696 P 93–0697 P 93–0700 P 93–0702
P 93–0703 P 93–0704 P 93–0705 P 93–0706

P 93–0707 P 93–0708 P 93–0709 P 93–0710 P 93–0730 P 93–0736 P 93–0737 P 93–0738 Y 93–0150 Y 93–0151 Y 93–0152 Y 93–0153
P 93–0711 P 93–0712 P 93–0713 P 93–0714 P 93–0739 P 93–0740 P 93–0741 P 93–0742 Y 93–0154 Y 93–0155 Y 93–0156 Y 93–0157
P 93–0715 P 93–0716 P 93–0717 P 93–0719 P 93–0743 P 93–0744 P 93–0745 P 93–0746 Y 93–0158 Y 93–0159 Y 93–0160 Y 93–0161
P 93–0722 P 93–0723 P 93–0724 P 93–0725 Y 93–0142 Y 93–0143 Y 93–0144 Y 93–0145 Y 93–0162 Y 93–0163 Y 93–0164
P 93–0726 P 93–0727 P 93–0728 P 93–0729 Y 93–0146 Y 93–0147 Y 93–0148 Y 93–0149

IV. 117 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture.

PMN No.	Identity/Generic Name	Date of Commencement
P 83–1131	G Salt of alpha olefin /2,5- furandione polymer	April 28, 1993.
P 85–0718	G Polyol polyacrylate	March 17, 1993.
P 85–1331	Naphthalene, 1,2,3,4-tetrahydro(1-phenylethyl)	June 19, 1987.
P 90–0017	G Acrylate-capped polyurethane diol	May 5, 1993.
P 90–0559	1-(1-methylbutoxy)-4-benzenamine hydrochloride	November 6, 1991.
P 90–1358	Cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo-	November 15, 1991.
P 90–1840	G Aromatic aminoether	November 19, 1992.
P 90–1925	G Hydroxy terminated polyacrylate	April 21, 1993.
P 90–1973	G Alkoxylated aliphatic alcohol, monostearate	March 30, 1993.
P 91–0339	G Polyurethane polymer	May 18, 1993.
P 91–0412	G Polyurethane polymer	April 16, 1993.
P 91–0431	G Isophthalic alkyd resin	April 20, 1993.
P 91–0674	G Rosin ester phenolic modified	April 20, 1993.
P 91–0776	G Alkyl dicarboxylic acid monoester, strontrium salt	April 14, 1993.
P 91–0921	G Urethane modified alkyd resin	April 20, 1993.
P 91–0922	G Maleic imide modified rosin phenolic resin	April 20, 1993.
P 91–0994	G Diisocyanate trimer, reaction product with polyether polyol	March 30, 1993.
P 91–1087	G Polyurethane resin	April 20, 1993.
P 91–1190	G Substituted dichlorobenzothiazole	May 4, 1993.
P 91–1191	G Substituted dichlorobenzothiazole	May 4, 1993.
P 92–0173	G Dibasic acid glycol polyester	April 15, 1993.
P 92–0267	G Halogenated alkyl nitrile	April 15, 1993.
P 92–0341	Ethane,-1,1,1-trifluoro	July 16, 1992.
P 92–0518	G Fluorinated copolymer	April 28, 1993.
P 92–0688	G Quaternary ammonium salt of fluorinated alklyl-aryl amide	September 6, 1992.
P 92–0719	G Rosin-modified hydrocarbon resin	March 30, 1993.
P 92–0748	G Non-bromo substituted alkene	April 14, 1993.
P 92–0812	G Starch ester	April 26, 1993.
P 92–0822	G Polyimide precursor solution	March 29, 1993.
P 92–0835	Fatty acids, C_{18}–unsaturated, dimer polymer with a dibasic acid, ethylenediamine and diamines	April 18, 1993.
P 92–0991	G Trisubstituted naphthalene sulfonic acid	May 6, 1993.
P 92–0999	Formaldehyde, polymer with (1,1'–biphenyl)-4-ol and phenol	April 30, 1993.
P 92–1004	G Amine phosphate	April 14, 1993.
P 92–1073	G Poly ether polyamine	April 15, 1993.
P 92–1076	G Sulfonated fatty acid salt	April 15, 1993.
P 92–1077	G Sulfonated fatty acid salt	April 15, 1993.
P 92–1092	G Functional, styrenated, (meth) acrylic copolymer solution	April 3, 1993.
P 92–1093	G Functional methacrylic copolymer solution	April 3, 1993.
P 92–1094	G Functional (meth) acrylic copolymer solution	April 3, 1993.
P 92–1136	G Aqueous epoxy functional silane	April 8, 1993.
P 92–1280	G Styrenated acrylate methacrylate polyester	April 21, 1993.
P 92–1281	G Styrenated acrylate/methacrylate polymer	April 20, 1993.
P 92–1340	G Substituted azo benzenesulfonic derivative, cobaltcomplex	April 8, 1993.
P 92–1384	G Acrylic polymer	April 30, 1993.
P 92–1386	G Acryloc polymer	April 22, 1993.
P 92–1436	G Polyurethane, trimethylamine salt	March 28, 1993.
P 92–1471	G Acryate copolymer salt; vinyl copolymer	May 4, 1993.
P 92–1492	G Styrene-acrylic polymer	April 23, 1993.
P 93–0027	G Polyurethane based on polyisocyanate, polyols and polyamines	April 17, 1993.
P 93–0050	G Polyol acetal	April 17, 1993.
P 93–0059	G 3-[Amine substituted-4-[hydroxyalkoxy]phenyl]azo] benzenesulfonate, salt	April 26, 1993.
P 93–0087	G Acrylic polymer	April 12, 1993.
P 93–0106	2-Ethyl hexyl ester of rapeseed fatty acids	May 4, 1993.
P 93–0117	Copolyester of terephthalic acid, isophthalic acid, dodecanedioic acid and 1,4-butanediol	April 4, 1993.
P 93–0133	G Modified diphenylmethane diisocyanate	May 13, 1993.
P 93–0138	G Propanenitrile, 3-(alkylene)	April 6, 1993.
P 93–0139	G 1-Propanamine, 3(alkyloxy)	April 8, 1993.
P 93–0140	G Propanenitrile, 3-amino-*N*-(alkyloxy)propyl)	April 8, 1993.
P 93–0141	G 1,3-Propanediamine, *N*-(3-(alkoxy)propyl)	April 8, 1993.
P 93–0142	G 1,3-Propanediamine, *N*-(3-(alkyloxy)propyl),acetates	April 22, 1993.

IV. 117 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture.—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 93–0182	G Formaldehyde, polymer with (chloromethyl)oxirane and methylphenol, reaction products with acrylic acid and an anhydride	April 20, 1993.
P 93–0221	G *N*-Alkylaniline	May 6, 1993.
P 93–0222	G Alkylnitrosobenzeneamine	May 4, 1993.
P 93–0241	G Polyalkylphenols, polymer with formaldehyde	April 27, 1993.
P 93–0247	G Polysulfide polymer modified with phenolic resins	April 15, 1993.
P 93–0249	G Vinyl chloride copolymer	April 17, 1993.
P 93–0261	G Aliphate aromatic ester do-polymer	April 22, 1993.
P 93–0265	Manganese tungsten titanium brown rutile	March 19, 1993.
P 93–0281	G Salt of modified styrene maleic anhydride copolymer	April 20, 1993.
P 93–0283	G Pyrazolotriazol derivative	May 2, 1993.
P 93–0284	G Thiomorpholine dioxide derivative	May 2, 1993.
P 93–0286	G Polyester polyol	March 24, 1993.
P 93–0292	Benzenamine, 2-(phenylsulfonyl)-	May 3, 1993.
P 93–0293	1*H*-Indole-5-sulfonia acid, 2-phenyl-, monosodium salt	April 26, 1993.
P 93–0296	G Acrylic copolymer	March 31, 1993.
P 93–0301	G Olefin methacrylate polymer	April 29, 1993.
P 93–0340	1,3-Benzenedicarboxylic acid, 5-sulfo-, monosodiumsalt; 1,4-enzenedicarboxylic acid; 1,3-benzenedicarboxylic acid; 1,2 ethanediol; 1,3 ropanediol, 2,2-dimethyl	April 21, 1993.
P 93–0343	Nitrobenzoic acid, octyl ester	May 7, 1993.
P 93–0355	Fatty acids, tall oil, compd. with 9-octadecen-1-amine,)*Z*)-	May 6, 1993.
P 93–0357	G Substituted aniline	April 9, 1993.
P 93–0358	G Substituted anline	April 13, 1993.
P 93–0377	Titanium IV tetrakis tridecanolate	April 26, 1993.
P 93–0378	Zirconium IV tetrakis tridecanolato	April 26, 1993.
P 93–0379	Titanium IV tetrakis ethoxylated butanolato	April 28, 1993.
P 93–0380	Zirconium IV tetrakis ethoxylated butanolato	April 28, 1993.
P 93–0382	G Sulfo substituted heterocyclic derivative	May 2, 1993.
P 93–0395	G Alcohol propoxylate	April 28, 1993.
P 93–0407	G 2-Substituted benzothiazole	April 21, 1993.
P 93–0408	G 3-(3-Substituted)-2-((3-substituted)thio)-benzothiazolium hydroxide, inner salt	April 16, 1993.
P 93–0413	G Methacrylate/acrylate/styrene copolymer	May 5, 1993.
P 93–0424	G Adipic acid polymer with 1,4-butanediol, 1,6-hexane diol, neopentyl glycol,isophthalic acid, polymerwith 1,6-hexane diol, neopentyl glycol, glycol of 1,3-butadiene homopolymer, alkyl amine, 2,4,4-trim ethyl hexamethylene diisocyanate, 3,5,5-trimethyl,3-isocyanatomethyl cyclohexyl isocyanate and propanoic acid, 3-hydroxy-2- (hydroxy methyl) 2-methyl, adduct with *N,N* diamine adipamide	May 17, 1993.
P 93–0440	G Reaction product of branched aliphatic alcohol, diethylene glycol, hathalic acid, dimer acid, tall oil fatty acid, petroleum by product	April 29, 1993.
P 93–0453	Titanium IV tetrakis tridecanolato, adduct 2 moles of tris tridecyl hosphate	May 1, 1993.
P 93–0454	Zirconium IV Tetrakis tridecanolato, adduct 2 moles of tris tridecyl phosphate	May 1, 1993.
P 93–0460	G Polyamide	May 7, 1993.
P 93–0467	G Polyaminoamide-epichlorohydrin resin	May 7, 1993.
P 93–0475	G Lignin, kraft, reaction product with tall oil fatty acids, C_{21} dicarboxylic acid and ethyleneamines	April 30, 1993.
Y 90–0017	G Acrylic polymer	June 25, 1991.
Y 90–0261	G Acrylic polymer salt	May 7, 1993.
Y 91–0163	G Polyurethsane resin	April 20, 1993.
Y 91–0164	G Phthallic alkyd resin	April 12, 1993.
Y 92–0174	G Non-volatile acrylic copolymer	March 24, 1993.
Y 93–0017	G Styrene-acrylic copolymer	March 30, 1993.
Y 93–0037	G Alkyl acrylate - maleate copolymer dispersion	April 22, 1993.
Y 93–0049	G Acrylic polymer	May 12, 1993.
Y 93–0052	G Dimethyl carbonate, polymer with poly(oxyalkylene)monomethyl ether	May 8, 1993.
Y 93–0053	G Sorbitol hexakis(poly (oxyalkylene)ether (terminal OH), polymner with bis(2-(2-methoxy-1-propoxy)-1-alkyl)carbonate	May 8, 1993.
Y 93–0060	G Saturated copolyester	April 29, 1993.
Y 93–0064	G Polyester, polymer with polyisocyanatoalkanes, and polyaminoalkanes	April 21, 1993.
Y 93–0065	G Carboxylic polybutadiene	April 12, 1993.
Y 93–0067	G Ethylene copolymer	April 20, 1993.
Y 93–0070	G Styrenated acrylic graft copolymer wth fumaric resin, amine salt	April 19, 1993.
Y 93–0071	G Styrenated acrylic graft copolymer with fumaric resin, amine salt	April 19, 1993.
Y 93–0075	G Morpholine form ion exchange resin	May 3, 1993.
Y 93–0088	G Polyether/polyester urethane	May 3, 1993.
Y 93–0091	G Unsaturated polyester polymer	May 3, 1993.
Y 93–0095	G Crosslinked polyol	May 10, 1993.

V. 21 Premanufacture notices for which the period has been suspended.

PMN No.

P 93–0014 P 93–0282 P 93–0364 P 93–0438
P 93–0578 P 93–0637 P 93–0652 P 93–0698
P 93–0699 P 93–0718 P 93–0720 P 93–0721
P 93–0731 P 93–0732 P 93–0733 P 93–0734
P 93–0735 P 93–0758 P 93–0759 P 93–0761
P 93–0896

[FR Doc. 93–22786 Filed 9–16–93; 8:45 am]
BILLING CODE 6560–50–F

Federal Register

Friday
September 17, 1993

Part VI

Department of the Interior

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Indian School Equalization Formula (ISEF) Study
2. Improved Accountability Measures/ Indicators of School Quality
3. Alaska Native Education
4. Public Law 101–301 "Miscellaneous Indian Law Amendments" (Includes Construction Funds)
5. Exceptional Education Regulations
6. Alternative Funding Methods for Construction of Indian Schools

DATES: October 13, 15, 18, and 20, 1993 for all locations listed. Several of the dates and locations were scheduled to coincide with meetings of various Indian education organizations. All meetings will begin at 8 a.m. and continue until 3 p.m. (local time). Written comments concerning the consultation items must be received no later than November 10, 1993.

ADDRESSES:

Location	Local contact	Telephone
October 13, 1993		
1. North Dakota, Bismarck.	Jim Davis ...	701/477–6471
2. Alaska, Anchorage.	Robert Pringle.	907/271–4115
October 15, 1993		
1. Minnesota, Bemidji.	Betty Walker	612/373–1090
2. Arizona, Phoenix.	Mike Smith, Rosella Lawrence.	602/562–3557
October 18, 1993		
1. New Mexico, Albuquerque.	Val Cordova	505/766–3034
2. Montana, Billings.	Larry Parker	406/657–6375
3. Oklahoma, Oklahoma City.	Jim Baker ...	405/945–6051
4. Washington, Spokane.	Van Peters .	503/230–5682
October 20, 1993		
1. New Mexico, Gallup.	Larry Holman.	505/786–6150
2. Tennessee, Nashville.	Kimberly Marciano.	703/235–3233
3. Nevada, Reno.	Fayetta Babby.	916/978–4680

Written comment should be mailed, to be received, on or before November 10, 1993, to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3512 MIB, 1849 C Street NW., Washington, DC 20240, Attn: Dr. John Tippeconnic; or, may be hand delivered to room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: John Tippeconnic or Jim Martin at the above address or call 202/208–6123 or 208–3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the BIA since 1990. The purpose of the consultation, as required by 25 U.S.C. 2010(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the October meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

Dated: September 9, 1993.

Ron Eden,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 93–22794 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–02–P–M

federal register

Friday
September 17, 1993

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 61

Renewal of Flight Instructor Certificates; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. 27184; Notice No. 93–11]

RIN 2120–AF13

Renewal of Flight Instructor Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Federal Aviation Regulations (FAR) governing the renewal of flight instructor certificates; specifically, to permit holders of flight instructor certificates to renew their certificates by completing an approved number of hours of ground or flight instruction, or both, in an approved flight instructor refresher course (FIRC). The proposed amendment addresses concerns identified by the Aircraft Owners and Pilots Association (AOPA) in a petition for exemption. This action is intended to provide an equivalent level of safety while reducing the financial burden placed on individual flight instructors.

DATES: Comments must be submitted on or before October 18, 1993.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 27184, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27184. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal Holidays.

FOR FURTHER INFORMATION CONTACT: John Lynch, Regulations Branch (AFS–850), General Aviation and Commercial Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267–8150.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the economic, environmental, energy, or federalism impacts that might result from adoption of the proposals contained in this notice are also invited. Substantive comments should be accompanied by actual and anticipated cost impact statements, as appropriate. Comments should identify the regulatory docket number and be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed amendments. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket Number ____." The postcard will be date stamped and mailed to the commenter.

Availability of This Notice

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should request from the above office a copy of Advisory Circular 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

This proposal to amend the specific number of hours of instruction that holders of flight instructor certificates must complete in an approved FIRC to renew their certificates is based on a petition for exemption from AOPA. The FAA believes, however, that rulemaking is necessary to permit holders of flight instructor certificates to renew their certificates by attending an approved FIRC of fewer hours of ground or flight instruction, or both, than the 24 hours currently required by the FAR. Therefore, the FAA has determined that the appropriate response to the AOPA's petition for exemption is to propose a change to the existing regulations. The FAA has concluded that this proposal would maintain a current level of safety and is appropriate in light of the recent advances in instructional technology and training techniques. In addition, the FAA has determined that this proposal would benefit the aviation community as a whole and as such is initiating this notice of proposed rulemaking.

Discussion

The AOPA petitioned the FAA for exemption from § 61.197(c) of the FAR to permit holders of flight instructor certificates to renew their certificates by attending an approved FIRC of 16 hours of ground or flight instruction, or both, in lieu of the current 24 hours required by § 61.197(c). AOPA fully describes its rationale in the petition for exemption published at the end of this notice.

The FAA agrees with the petitioner's rationale. There is a need to streamline current FIRCs to provide for a condensed weekend renewal program. The majority of certificated flight instructors maintain personal or professional responsibilities such that weekend renewal is a needed option for the maintenance of their certificate. The recent advances in instructional technology and training techniques more than compensate for a reduction in classroom time requirements. The innovative and interactive educational programs, such as the AOPA's "Trigger Tapes" and "Operation Airspace" facilitating learning at the application level, allow for a reduction in the amount of hours that holders of flight instructor certificates must complete in an approved FIRC to renew their certificates while maintaining the current level of safety.

The FAA has determined that if the option to specify the number of hours of instruction through an FAA approval as part of the approved renewal program is adopted there would be substantial benefits to the aviation community; specifically, it would eliminate the burden of the longer 24 hour course, mitigate the current decline in instructional resources, and offer financial advantages to individual flight instructors. For example, approval of AOPA's 16 hour course would allow a 1 day reduction in travel expenses to individual flight instructors saving an average per diem cost of $100.

The AOPA petition for exemption was published in the **Federal Register** on March 17, 1993 (58 FR 14466). The FAA received two comments on the petition of which both comments voiced support. After review of the petition and the submitted comments, the FAA has concluded that while the petition has considerable merit, AOPA is not unique in its position. Therefore, the FAA has initiated this notice of proposed rulemaking in response to AOPA's petition for exemption.

Proposed Rule

The FAA agrees with the intent of the AOPA petition for exemption. This proposal integrates the concepts of the petitioner's request and the FAA's views on how to accomplish these objectives while maintaining safety and cost effectiveness. The proposal set forth in this NPRM would allow for approval of the number of hours of instruction that holders of flight instructor certificates must complete in an FAA approved FIRC to renew their certificate.

International Civil Aviation Organization and Joint Aviation Regulations

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because flight instructor certification requirements have no bearing on flight operations internationally.

Paperwork Reduction Act Approval

This proposed amendment will not change the reporting requirements. Therefore, in accordance with the Paperwork Reduction Act of 1980. (Pub. L. 96–511), there are no additional requirements for information collection associated with this proposed rule.

Economic Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if benefits to society for each regulatory change outweigh potential costs. Accordingly, the FAA makes the following preliminary economic evaluation of this proposal. Based on the results of its investigation, the FAA has concluded that this proposal is cost-beneficial.

This section contains the benefits and cost analyzed in the preliminary regulatory evaluation. In addition, it includes an initial regulatory flexibility determination required by the 1980 Regulatory Flexibility Act and an international trade impact assessment.

Current holders of flight instructor certificates may renew their certificates if they successfully complete an approved flight instructor refresher course consisting of not less than 24 hours of ground or flight instruction, or both. The FAA has determined, however, that recent advances in instructional technology and training techniques allow for a reduction in the number of required instruction hours without compromising safety. The FAA will develop the standards and recommended number of hours required for an approved FIRC. This will be done to ensure that a high level of safety is maintained.

The estimated benefits of the proposed rule are the cost savings from the reduction in required instructional hours and travel expenditures for the affected flight instructors. For example, approval of AOPA's 16 hour course would allow a 1 day reduction in travel expenses to individual flight instructors: assuming an average per diem cost of $100 and that two-thirds of the annual average of 20,000 flight instructors renewing their certificates through FIRCs would have to travel out of town, the industry could realize an annual savings of $1.3 million in per diem travel expenses. There also would be a reduction in foregone earnings. Assuming a flight instructor earns $20 per hour and provides 4 to 8 hours of instruction, per day, the reduction in foregone earnings would be between $1.6 million and $3.2 million annually. In addition, the FAA believes that individual flight instructors would realize a savings in the cost of the FIRC by the reduction in the number of required instruction hours. The FAA welcomes any comments on this issue.

There would be no incremental costs associated with this proposed rule since the number of instruction hours required in a FIRC would be relaxed. The FAA has concluded that there would be no degradation of safety as any reduction in instructional hours would be the result of advances in instructional technology and training techniques. The FAA believes that it is the content of the FIRC, not the specific number of hours of instruction in that FIRC, that is important to safety. Therefore, the FAA has concluded that the proposed rule is cost-beneficial.

International Trade Impact Analysis

This proposed rule would have a negligible impact on trade opportunities for U.S. firms doing business overseas or on foreign firms doing business in the U.S. The proposed rule primarily affects certificated flight instructors, not businesses involved in the sale of aviation products or services.

Regulatory Flexibility Determination

The proposed rule would not have a significant economic impact, positive or negative, on small entities. Flight instructors, rather than small entities, would be affected by this proposed rule. Where a flight instructor is also the sole proprietor of a small business, and exercises the privileges of his or her certificate in operations that are incidental to that business, the proposed rule would have a negligible impact.

Federalism Impact

The proposals contained herein will not have a substantial direct effect 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 amendment does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Conclusion

This notice proposes to amend § 61.197(c) of the FAR by permitting holders of flight instructor certificates to renew their certificates by completing an approved number of hours of ground or flight instruction, or both, in an approved flight instructor refresher course.

For the reasons discussed in the preamble, and based on the findings in the initial Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, the FAA certifies that this proposed 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. This proposal is not considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For this reason, it has been determined that the expected economic impact of the proposed amendment is so minimal that a full Regulatory Evaluation is not warranted.

List of Subjects in 14 CFR Part 61

Flight instructors.

The Proposed Amendment

Accordingly, part 61 of the Federal Aviation Regulations (14 CFR part 61) is proposed to be amended as follows:

PART 61—CERTIFICATION; PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 is revised to read as follows:

Authority: 49 U.S.C. Appendix 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g).

2. Section 61.197 is amended by revising paragraph (c) as follows:

§ 61.197 Renewal of flight instructor certificates.

* * * * *

(c) He or she has successfully completed, within 90 days before the

application for the renewal of his or her certificate, an approved flight instructor refresher course consisting of ground or flight instruction, or both.

Issued in Washington, DC, on September 13, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

[FR Doc. 93–22817 Filed 9–16–93; 8:45 am]

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federal register

Friday
September 17, 1993

Part VIII

Federal Communications Commission

47 CFR Part 64

Expanded Interconnection With Local Telephone Company Facilities; Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 91-141; FCC 93-378]

Expanded Interconnection With Local Telephone Company Facilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In September 1992, the Commission adopted the Special Access Order, requiring Tier 1 local exchange carriers (LECs), excluding NECA pool members, to offer expanded interconnection for special access to all interested parties, thereby permitting competitors and high volume users to terminate their own transmission facilities at LEC central offices. In the Second Reconsideration Order, the Commission reconsidered *de novo* the fresh look policy adopted in the Special Access Order, clarified and expanded its requirements concerning the application of nonrecurring charges, modified the requirement for tariffing virtual collocation arrangements, and specified certain standards that must be met for a connection charge rate structure to be considered reasonable. This final rule implements the Commission's Second Reconsideration Order.

DATES: The final rule is effective November 16, 1993 at 12:01 a.m.

The provisions setting forth the requirements for fresh look, and the provisions setting forth the requirements for nonrecurring charges, must be complied with October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Suzanne M. Tetreault, (202) 632-6374, or Linda H. Haller, (202) 632-1298.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Memorandum Opinion and Order on Reconsideration, adopted August 3, 1993, and released September 2, 1993. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

Paperwork Reduction Act

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3225, New Executive Office Building, Washington, DC 20503, (202) 395-4814. For further information, contact Judy Boley, Federal Communications Commission, (202) 632-7513.

Please note: The Commission has requested expedited review of this collection by October 1, 1993 under the provisions of 5 CFR 1320.18.

Title: Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141.

Action: New collection.

Respondents: Business or other for-profit.

Frequency of response: One-time collection with each required tariff filing.

Estimated Annual Burden: 16 responses; 15 hours average burden per response.

Needs and Uses: In the Second Memorandum Opinion and Order on Reconsideration in CC Docket No. 91-141 (released September 2, 1993), the Commission reconsidered *de novo*, and adopted a modified version of, the "fresh look" policy adopted in the Commission's Report and Order FCC 92-440, 57 FR 54323 (11/18/92), 7 FCC Rcd 7369 (1992), in that docket. The September 2 Order also clarified and expanded earlier Commission requirements concerning the neutral application of nonrecurring charges, modified the requirements for tariffing virtual collocation arrangements, and specified certain standards that must be met for a carrier's connection charge rate structure to be considered reasonable. The Order requires local exchange carriers (LECs) to make tariff filings to provide public notice of the start of the "fresh look" period at each of their offices where expanded interconnection is implemented. LECs must also file tariff revisions to implement the modified fresh look rules. LECs must make tariff revisions to bring their tariffs into compliance with the requirements concerning nonrecurring charges no later than October 18, 1993. LECs must revise their connection charge tariffs if they do not satisfy the standards set forth in the Order. Finally, LECs may choose to revise their virtual collocation tariffs to reflect the less extensive tariffing requirements adopted on reconsideration.

Summary of the Order

1. In September 1992, the Commission adopted an order requiring Tier 1 local exchange carriers (LECs), excluding NECA pool members, to offer expanded interconnection for special access to all interested parties, permitting competitors and high volume users to terminate their own transmission facilities at LEC central offices.[1] Eighteen parties filed petitions that together request reconsideration of all significant aspects of that decision. This Order reconsidered only certain particularly time-sensitive issues. Other issues raised by the petitions for reconsideration will be addressed in a later order.

"Fresh Look"

2. In the Special Access Order, the Commission adopted a limited "fresh look" policy that would cap the charges a LEC may impose on certain customers who terminate long-term LEC special access arrangements. In the Second Reconsideration Order, the Commission found that there was sufficient notice to permit adoption of a fresh look requirement, and reexamined the fresh look issues *de novo*.

3. The Commission concluded that there is a need for a limited fresh look opportunity to allow eligible LEC customers to assess the new alternatives available in a more competitive market. The Commission found that adoption of the fresh look policy set forth in the Order is a lawful exercise of its authority under sections 201 through 205 of the Communications Act, and does not constitute an unlawful abrogation of contract or an unlawful rate prescription, as some parties alleged.

4. The Commission concluded that only arrangements for terms of three years or longer, entered into on or before September 17, 1992, should be eligible for the fresh look option. Fresh look does not permit a LEC to cancel a long-term arrangement that a customer wishes to continue.

5. The fresh look period will be triggered when the first expanded interconnection arrangement is operational in a particular central office

[1] Expanded Interconnection with Local Telephone Company Facilities, Report and Order, FCC 92-440, 57 FR 54323 (11/18/92), 7 FCC Rcd 7369 (1992) (Special Access Order), *appeal pending sub nom. Bell Atlantic Corp. v. FCC*, No. 92-1619 (D.C. Cir., filed November 25, 1992). On December 18, 1992, the Commission released a *sua sponte* reconsideration order reducing the number of offices at which the LECs must initially implement expanded interconnection. Expanded Interconnection with Local Telephone Company Facilities, Memorandum Opinion and Order, 8 FCC Rcd 127 (1992) (First Reconsideration Order).

or other location. Expanded interconnection is deemed operational when an interconnector takes the specific access expanded interconnection cross-connect element. The fresh look option will then be available for a period of 180 days.

6. The Commission also required that LECs provide public notice of the initiation of the first look period in each central office or location. LECS are required to file with the Commission, within five business days of the date on which the first expanded interconnection arrangement becomes operational in an office or other location, a tariff transmittal stating that the fresh look period will begin to run as of the date that such notice is filed with the Commission.

7. Finally, if the customer gives notice during the 180 day period that it intends to terminate its arrangement with the LEC in order to take service from an interconnector, the customer is entitled to application of a fresh look limit on termination charges, even if it does not actually terminate service under the long-term arrangement with the LEC until after the 180 day period has expired. The interconnector that the customer intends to take service from, however, must make a request for interconnection during the fresh look period. The customer may, of course, give notice that it intends to interconnect directly with the LEC under our expanded interconnection regulations. In addition, the customer must actually terminate service under its arrangement with the LEC within ninety days after the interconnection arrangement is operational in order to be eligible for the fresh look limitation on termination charges.

8. The Commission also established a further fresh look period for mixed use facilities (special access facilities used to carry both special access and switched traffic) when the first switched transport expanded interconnection arrangement becomes operational at a LEC location. This additional fresh look period will apply only to LEC mixed use circuits covered by arrangements of three years or more, entered into on or before September 17, 1992. This further fresh look period will be subject to the same terms as the fresh look period triggered when expanded interconnection for special access becomes operational.

9. The Commission did not require the LECs to eliminate all termination liabilities under fresh look, but required that such liabilities be limited as follows. Notwithstanding any termination charges provided for in the applicable LEC tariffs, when fresh look applies, the LEC may not charge more than the difference between (1) the amount the customer has already paid and (2) any additional charges that the customer would have paid for service if the customer had originally taken a shorter term arrangement corresponding to the term actually used, plus interest to be calculated at the IRS rate for tax refunds, compounded daily. Interest rates are to be adjusted to reflect changes in the IRS interest rate and will apply to the balances due under the recalculation as they would have accrued over time. If the actual term of service taken does not coincide exactly with a service term offered by the LEC, the charges for the service used are to be calculated at the rates applicable at the time the service term began, for the longest term commitment that the customer would have completed. The charge for the period beyond that term is to be calculated pro rata at the rates applicable to the completed term. This order only sets the maximum termination liabilities that may be imposed, and is not intended to increase any termination liabilities that may be below this level.

Nonrecurring Reconfiguration Charges

10. In the Special Access Order, the Commission required that LECs apply nonrecurring reconfiguration charges in a neutral manner that does not differentiate based on whether the customer chooses to use interconnector or LEC facilities for special access service unless there are specific, identifiable cost differences. The Commission expanded upon that requirement in the Second Reconsideration Order. The Commission ordered that, first, in order to ensure just, reasonable, and nondiscriminatory rates, all nonrecurring charges applicable to customers shifting to an interconnector's services are to be set no higher than cost-based levels. Such charges are to reflect only the costs incurred for the particular type of reconfiguration being implemented. In addition, the difference between the charges applicable when a customer shifts to an interconnector's services and those applicable when a customer reconfigures its service with the LEC must be cost-based. Thus, if a LEC waives nonrecurring reconfiguration charges for LEC special access or transport services, it must not charge customers who reconfigure in order to take service pursuant to an expanded interconnection arrangement more than an amount reflecting the difference between the costs of the two different types of reconfigurations.

11. In order to implement these principles, the Commission made the following change in the application of its price cap rules. For those nonrecurring charges that apply to the reconfiguration or rearrangement of special access services, the presumption of lawfulness generally accorded to within-band, within-cap rates under our price cap rules will not apply. The LECs are to file tariff revisions implementing these standards as soon as possible, but in no event later than October 18, 1993.[2]

Virtual Collocation

12. In the Special Access Order, the Commission required LECs to make virtual collocation generally available in their tariffs throughout any study area in which they had negotiated an individual virtual collocation arrangement with an interconnector or provided intrastate virtual collocation. In the Special Access First Reconsideration Order, the Commission narrowed the scope of that requirement to require that virtual collocation be tariffed initially only in the subset of LEC facilities designated for implementation of expanded interconnection.

13. In the Second Reconsideration order, the Commission concluded that if a LEC negotiates an individual interstate special access virtual collocation arrangement with an interconnector, it need not make that virtual collocation arrangement generally available in the full subset of LEC locations designated for collocation in the study area. Instead, the LEC only must make the arrangement available to other parties in the actual LEC location involved. In addition, if a LEC offers an intrastate virtual collocation arrangement, it need not file an interstate tariff offering virtual collocation in the full subset of LEC locations designated for collocation in the study area. Instead, it can offer virtual collocation but rather only in the actual LEC locations in which it offered the intrastate arrangement.

14. These virtual collocation requirements do not affect the obligation of a LEC to tariff interstate virtual collocation where it has been granted an exemption from the physical collocation tariffing requirement. Therefore, when a LEC has been granted a space exemption in a specific location, the LEC must file a virtual collocation tariff for that location. In addition, a LEC that has been granted an exemption based on state action must file an interstate

[2] This tariff filing date is subject to the Commission obtaining expedited approval from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

virtual collocation tariff for special access covering all of the exempt LEC locations in the subset of offices designated for collocation. Thus, this rule does not apply to virtual collocation offerings made in lieu of physical collocation under the exemptions for lack of space or state action. As a result, in the case of a LEC central office covered by the state exemption where the LEC also has a separate individually negotiated special access virtual collocation arrangement, the LEC must file a general interstate virtual collocation tariff pursuant to the state exemption, as well as tariff the individually negotiated virtual collocation arrangement.

Connection Charge Rate Structure

15. In the Special Access Order, the Commission did not impose detailed rate structure requirements, but allowed the LECs to establish reasonable disaggregated rate subelements for connection charges for expanded interconnection, except that it required the LECs to establish a cross-connect element that applies uniformly to both physical and virtual collocation. The Commission in the Second Reconsideration Order specified certain standards that must be met in order for a rate structure to be considered reasonable. First, the rate structures used by each LEC are to reflect cost causation principles, i.e., the manner in which costs are incurred in providing expanded interconnection services. In addition, the LECs are to unbundle their rate structures, in order to ensure that interconnectors are not forced to pay for services that they do not need.

Ordering Clauses

16. Accordingly, *it is ordered*, pursuant to authority contained in sections 1, 4, 201–205, and 214 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, and 214, that part 64 of the Commission's Rules are amended as set forth in the Amendatory text.

17. *It is further ordered*, That the rules and requirements set forth herein are adopted.

18. *It is further ordered*, That the petitions for reconsideration and clarification of the Special Access Order are granted to the extent discussed herein.

19. *It is further ordered*, That the Petition of MFS Communications Company, Inc. for Expedited Decision of "Fresh Look" Issues is denied.

20. *It is further ordered*, That except as specifically noted below, the policies, rules, and requirements adopted herein shall be effective sixty days after publication in the **Federal Register.**

21. *It is further ordered*, That the provisions setting forth the requirements for fresh look, and the provisions setting forth the requirements for nonrecurring reconfiguration charges, shall be effective thirty days after publication of this Order in the **Federal Register.**[3]

[3] This effective date is subject to OMB approval pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

List of Subjects in 47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 64 of title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225 unless otherwise noted.

2. Section 64.1401 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 64.1401 Expanded interconnection.

* * * * *

(c) In addition to the obligations imposed by paragraph (b) of this section, the local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access through virtual collocation in a local exchange carrier location in which:

* * * * *

[FR Doc. 93–22857 Filed 9–16–93; 8:45 am]

BILLING CODE 6712–01–M

federal register

Friday
September 17, 1993

Part IX

Federal Communications Commission

47 CFR Parts 61 et al.
Expanded Interconnection With Local Telephone Company Facilities; Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61, 64, 65, and 69

[CC Docket No. 91-141; FCC 93-379]

Expanded Interconnection With Local Telephone Company Facilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is requiring Tier 1 local exchange carriers (LECs), except NECA pool members, to provide expanded interconnection for switched transport to all interested parties. This will permit competitive access providers, interexchange carriers, and interested users to terminate their own switched access transmission facilities at LEC locations, including central offices, serving wire centers, tandem switches, and certain remote nodes. LECs must tariff expanded interconnection for switched transport through physical collocation, although the parties remain free to negotiate satisfactory virtual collocation arrangements. In conjunction with these measures, the Commission grants Tier 1 LECs additional switched transport pricing flexibility in the form of zone density pricing, and volume and term discounts.

DATES: The final rules are effective November 16, 1993, at 12:02 a.m.

The provisions requiring interconnectors that wish the November 18, 1993 LEC tariff filings to include LEC locations in addition to those already designated for collocation in the Special Access proceeding to request those locations by October 18, 1993 must be complied with October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Suzanne M. Tetreault, (202) 632-6374, or Linda H. Haller, (202) 632-1298.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order and Third Notice of Proposed Rulemaking[1] in CC Docket No. 91-141, adopted August 3, 1993, and released September 2, 1993. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

[1] This summary addresses only the Report and Order. A separate summary of the Notice of Proposed Rulemaking will be published.

Paperwork Reduction Act

Public reporting burden for the collection of information is estimated to average 125 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Paperwork Reduction Project, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Summary of the Order

1. The Commission concluded that expanded interconnection for the provision of interstate switched transport service will produce substantial public interest benefits that outweigh prospective drawbacks. The Commission found that enhanced competition in the interstate access market should increase access providers' incentives for efficiency and encourage deployment of advanced technologies facilitating new and innovative services. It also concluded that expanded interconnection should provide additional service choices to access customers that value redundancy and route diversity. In addition, it should increase access providers' responsiveness to customers in the provision of current services. The Commission therefore required Tier 1 local exchange carriers (LECs), other than NECA pool members, to implement expanded interconnection for switched transport as described below. The interconnection policies and requirements for special access, as well as the LEC pricing requirements for special access expanded interconnection, apply to switched transport expanded interconnection except as indicated to the contrary in this Order.

2. The Commission required LECs to file tariffs for interstate switched transport expanded interconnection on November 18, 1993, with a scheduled effective date of February 15, 1994. The prohibition on interconnectors' use of interstate special access expanded interconnection offerings to connect their transmission facilities with the LEC's interstate switched services (ratcheting) will be eliminated when LEC tariffs offering expanded interconnection for switched transport become effective.

Interconnection Architecture

3. The Commission required the LECs subject to the Order to make physical collocation available to all interested parties subject to two limited exceptions. The LECs must offer expanded interconnection for switched transport through physical collocation at all locations included in the subset of offices subject to expanded interconnection, except for locations covered by a space or state decision exemption. The LEC must file a virtual collocation tariff that covers the locations (within the subset) that are exempt from the physical collocation requirement.

4. The Commission also will apply the same standards for special access virtual collocation to expanded interconnection for interstate switched transport. Interconnectors using virtual collocation arrangements for switched transport are permitted to designate the LEC transmission equipment dedicated to their use, as well as monitor and control their circuits terminating in LEC facilities. Interconnector-designated equipment used for switched transport must meet applicable fire and safety codes, and interconnectors must bear any additional costs reasonably incurred by the LECs as a result of the interconnector's choice of equipment. In providing virtual collocation for switched transport, LECs must install, maintain, and repair interconnector equipment under the same time intervals and with the same failure rates that apply to the performance of similar functions for comparable LEC equipment.

5. To provide a foundation for evaluating possible complaints, LECs must keep records and file reports annually with the Common Carrier Bureau on the installation, maintenance, and repair times for comparable LEC and interconnector equipment and circuits. The Commission expects LECs and interconnectors to carefully consider the Network Reliability Council's recommendations to the industry, as well as comply with any subsequent Commission rules on network reliability, so that both interconnectors and LECs take necessary steps to safeguard network reliability.

6. The two grounds for exemption from the physical collocation requirement that the Commission authorized in the Special Access Order (lack of physical space and state adoption of an order favoring virtual collocation or allowing LECs to choose

between virtual and physical collocation for intrastate special access expanded interconnection) shall apply to switched transport as well. The LEC locations for which the Commission has granted exemptions from the physical collocation requirement based on space considerations automatically will be exempt from the physical collocation tariffing requirement for the provision of expanded interconnection for interstate switched transport. Thus, an LEC will not have to file physical collocation tariffs for offices where the LEC already has been granted a space exemption. If other central offices, serving wire centers, remote nodes, or tandem offices not covered by the existing exemption orders lack adequate space for physical collocation, LECs must request a space exemption for the applicable location. The LEC, however, must file a virtual collocation tariff for any location that is granted a space exemption. LECs for which the Commission granted exemption requests based on state regulation in the special access proceeding will be exempt from the physical collocation requirement for switched transport expanded interconnection to the extent of the exemption for special access. There will not be a second opportunity for state regulatory action qualifying LECs for the state exemption.

7. In addition to the requirement that LECs generally tariff virtual collocation for offices exempt from the physical collocation requirement, there are two situations in which LECs must offer virtual collocation. First, as with special access, LECs may negotiate virtual collocation arrangements with interested parties regardless of whether the LEC's general expanded interconnection tariff is for physical collocation, or for virtual collocation pursuant to a state exemption. As is the case with special access, pursuant to the Second Reconsideration Order adopted today, if an LEC negotiates a switched transport virtual collocation arrangement with an interconnector, it must make that virtual collocation arrangement available to other parties in the actual LEC location involved. The LEC, however, need not make that virtual collocation arrangement available in the entire subset of offices where expanded interconnection is being implemented.

8. Furthermore, if an LEC offers an intrastate virtual collocation arrangement, it must file interstate tariffs offering virtual collocation in the actual LEC locations in which it offers the intrastate arrangement. Under these circumstances, the LEC need not make virtual collocation available in the full subset of LEC locations designated for implementation of expanded interconnection.

9. These virtual collocation requirements do not affect the obligation of an LEC to tariff interstate virtual collocation when it has been granted an exemption from the physical collocation tariffing requirement. Therefore, when an LEC has been granted a space exemption in a specific location, the LEC must file a virtual collocation tariff for that location. In addition, an LEC that has been granted an exemption based on state action must file an interstate virtual collocation tariff for switched transport covering all of the exempt LEC locations in the subset of offices designated for collocation. In the case of an LEC central office in an exempt state where the LEC also has an individually negotiated interstate switched transport virtual collocation arrangement, the LEC must file a general interstate virtual collocation tariff in conjunction with the state exemption, as well as the individually negotiated virtual collocation tariff.

Availability of Expanded Interconnection

10. Only Tier 1 LECs, other than NECA pool members, are required to provide expanded interconnection for interstate switched transport. If an exchange in which interstate expanded interconnection is offered is sold by a Tier 1 LEC to a Tier 2 LEC, the Tier 2 LEC must honor the arrangement and accept new expanded interconnection customers in that office.

11. LECs must offer expanded interconnection for switched transport to all interested parties that wish to terminate their own switched transport access transmission facilities at LEC premises, including competitive access providers (CAPs), interexchange carriers (IXCs), and end users. LECs must provide expanded interconnection for switched transport to AT&T and other parties already located in buildings containing an LEC central office under the same terms and conditions established for such parties in the Special Access Order. CAPs and other interconnectors will not at this time be required to provide reciprocal expanded interconnection for interstate switched transport.

Standards for Interconnection Arrangements

12. The Commission required LECs to allocate central office space on a first-come, first-served basis. In addition, LECs must provide virtual collocation when space for physical collocation is exhausted. LECs are permitted to include in their tariffs reasonable restrictions on warehousing of unused space by interconnectors.

13. LECs subject to this Order must provide expanded interconnection for switched transport in central offices and serving wire centers identified below. In the Special Access Order, the Commission originally required LECs to provide expanded interconnection for special access in all central offices and serving wire centers (SWCs). On reconsideration, however, the Commission reduced the requirement to a subset of offices designated jointly by LECs and interconnectors.[2] The Commission required LECs to offer expanded interconnection for switched transport in the same LEC locations in which special access expanded interconnection has been tariffed as of the date that the switched transport expanded interconnection tariffs are filed.

14. Interconnectors that wish the LEC tariffs filed November 18, 1993 to offer expanded interconnection for switched transport at LEC locations in addition to those already designated for collocation in the special access proceeding must request those locations by October 18, 1993. These requests should be limited to locations at which interconnectors intend to seek interconnection within the twelve months following the effectiveness of the expanded interconnection tariffs for switched transport. Interconnectors also may request expanded interconnection at additional LEC locations between October 18, 1993 and February 15, 1994.

15. LECs must file any tariff revisions necessary to respond to these requests 45 days after receipt of such a request, effective on 45 days notice. Requests received after October 18, 1993, but on or before November 18, 1993, shall be deemed to have been made on November 18, 1993. As a result, tariff revisions responding to any requests received during this period will not become effective before February 15, 1994 (the date that expanded interconnection will be available in the LEC locations included in the November 18, 1993 filing). If the notice period for the November 18, 1993 switched transport expanded interconnection tariff filing is extended to 120 days, the notice period for the tariff revisions covering additional offices shall also be extended for a comparable period. LECs also must include in their November 18, 1993 tariffs a procedure for adding LEC locations where expanded interconnection will be offered in

[2] Special Access First Reconsideration Order, 8 FCC Rcd at 128–29, ¶¶ 7–18.

response to *bona fide* requests from interconnectors received after the initial expanded interconnection tariffs become effective. The tariffs must provide that tariff revisions adding LEC locations will be filed within 45 days of receipt of a *bona fide* request, to be effective upon 45 days notice. At no time are LECs permitted to assess a nonrecurring charge upon interconnectors that submit *bona fide* requests for additional locations to cover the costs of surveying those locations for space availability.

16. LECs must tariff expanded interconnection for switched transport at all tandems housed in buildings containing LEC end offices or SWCs where expanded interconnection already has been tariffed. In addition, LECs must provide expanded interconnection for switched transport in all other tandem offices (e.g., stand-alone tandems or tandems collocated with LEC central offices or SWCs where expanded interconnection has not been tariffed) upon a *bona fide* request. The procedures set forth above for central offices and SWCs will apply to the tariffing of expanded interconnection in tandem offices in response to *bona fide* requests.

17. Upon a *bona fide* request, LECs must provide expanded interconnection at remote nodes/switches that serve as rating points for switched transport and that have the necessary space and technical capabilities. Interconnectors requesting expanded interconnection at remotes, and LECs that provide it, must follow the procedures set forth above for central offices and SWCs. The LEC requirement to provide expanded interconnection applies only to remote nodes/switches that can route outgoing interexchange access traffic to interconnectors and in which interconnectors can route terminating traffic to the LECs. LECs are not required to enhance remote nodes/switches or to build additional space to accommodate interconnection at these locations.

18. The Commission required LECs to provide an interconnection point or points as close as reasonably possible to the LEC location (i.e., central office, SWC, tandem, or remote node). The interconnection points must be the same points for both switched and special access. In addition, interconnection points must be physically accessible by both the LEC and interconnectors on nondiscriminatory terms. In the Special Access Order, the Commission required LECs to provide at least two separate points of entry to LEC facilities for purposes of expanded interconnection whenever there are at least two entry points for LEC cable. After reviewing LEC tariff filings, however, in the Special Access Tariff Order, the Common Carrier Bureau concluded that the original Special Access Order does not address instances where there are two or more LEC entry points but all but one are a capacity. The Bureau found that in that situation, it would be unreasonable to require the LEC to rearrange its facilities to permit an interconnector access to two entry points until this issue is reviewed on reconsideration. The Commission found that the entry point standard for switched transport should be treated the same as that for special access pending reconsideration of this issue in the special access portion of this proceeding. Therefore, the Commission promulgated the same rule for switched transport expanded interconnection as for special access, but the Commission waives the application of that rule pending reconsideration of the special access order on this issue. Accordingly, pending such reconsideration, LECs must provide at least two separate points of entry to LEC facilities for purposes of expanded interconnection whenever there are at least two entry points for LEC cable, unless all but one of the LEC entry points are filled to capacity, in which case an interconnector would be entitled to only one entry point. Following reconsideration of the two-entry point standard for special access expanded interconnection, LECs will be subject to the same rule for switched transport expanded interconnection as that prescribed in the special access reconsideration order. Even if a LEC has more than two entry points for its own cable, it does not have to offer more than two points of entry to interconnectors.

19. The Commission limited expanded interconnection for switched transport to transmission equipment. LECs are not required to provide collocation for enhanced services, customer premises, or other non-transmission equipment. LECs will not be required to allow interconnectors to collocate switches in LEC locations.

20. In the Special Access Order, the Commission required LECs to provide, where reasonably feasible, special access expanded interconnection for microwave facilities. After reviewing LEC tariff filings, however, in the Special Access Tariff Order, the Common Carrier Bureau concluded that microwave interconnection is sufficiently interconnector-specific to warrant tariffing of microwave expanded interconnection for special access on an individual case basis (ICB) in response to *bona fide* requests and granted a blanket waiver of the tariffing requirements for microwave collocation contained in the Special Access Order, pending reconsideration. The Commission found that microwave interconnection for switched transport should be treated the same as that for special access pending reconsideration of the microwave issue in the special access portion of the proceeding. Therefore, while special access reconsideration is pending on this issue, LECs must provide in their tariffs that they will establish ICB arrangements in response to *bona fide* requests. Any ICB arrangements for microwave interconnection must be tariffed, and made available to others at that LEC location. Once a LEC has multiple customers for microwave interconnection at a LEC location, it must revise its tariff to make a generic offering for that location. Following reconsideration, LECs will be required to tariff expanded interconnection for switched transport for microwave facilities in the same manner prescribed for special access.

21. LECs are not required to provide expanded interconnection for switched transport for non-fiber optic cable facilities (e.g., coaxial cable). Interconnection of non-fiber optic cable facilities should be permitted only upon Common Carrier Bureau approval of a showing that such interconnection would serve the public interest in a particular case.

Expanded Interconnection Pricing and Rate Structure

22. The Commission adopted the same basic rate structure rules for expanded interconnection for transport that it adopted in the Special Access Order, subject to the modifications adopted in the Special Access Second Reconsideration Order. Thus, connection charges (including the cross-connect element) for switched transport expanded interconnection services will not be formally unbundled from transmission charges. Instead, the LECs are to establish new connection charge elements for switched transport expanded interconnection. The Commission required that the same basic rate structure be used for both switched transport and special access expanded interconnection.

23. Many of the connection charge elements that the LECs have created for special access expanded interconnection also should be appropriate for switched transport expanded interconnection arrangements, because the same LEC functionalities are used. In such cases,

the LECs should use a single rate element for both special access and switched transport expanded interconnection. To the extent that new connection charges must be created to reflect additional LEC services involved in providing switched transport expanded interconnection, the LECs should create additional rate elements.

24. In addition, in the Special Access Second Reconsideration Order, the Commission specified certain standards that must be met in order for an expanded interconnection rate structure to be considered reasonable. Those standards will be applied to expanded interconnection for switched transport as well. Thus, the rate structure for expanded interconnection for switched transport must reflect cost causation principles, i.e., the manner in which costs are incurred, in providing expanded interconnection services. The LECs are also to unbundle their rate structures so that interconnectors can purchase only those services that they need.

25. The Commission adopted the same rules for establishing initial connection charge rate levels that it adopted in the Special Access Order. Thus, the Commission required the LECs to develop and justify consistent methodologies for deriving the direct cost of providing similar types of offerings, including expanded interconnection services covered by the connection charge elements. It also required the LECs to justify any deviations from uniform overhead loadings that they propose for pricing connection charges, although it did not specify a particular methodology in advance. Under this approach, if a LEC proposes to price connection charges to reflect fully distributed overhead loadings, we will compare such loadings to the overhead loadings used for other services and require justification for any differences.

26. Differences in connection charges as between special and switched transport expanded interconnection must be cost-justified. Differences in cross-connect charges based on whether interconnected services are connected at end offices, SWCs, or tandem offices must also be cost-justified. Where cost differences are minimal, however, the LEC will have the option to use averaged pricing, for the sake of simplicity. We also require that LECs must have a cost justification for any connection charges that vary based on the number or type of interconnected circuits.

27. When the same facilities are used to provide expanded interconnection for both special and switched access, such that the LEC incurs no additional costs, the LEC may impose only one charge for the use of those facilities. To the extent that additional facilities or services are involved, however, the interconnector may be charged for additional connection charge subelements.

28. The Commission will exclude changes in connection charges from price cap review, at least for an initial period. It designated expanded interconnection for switched transport services covered by connection charges as services that are excluded from the LEC's price cap baskets.

29. The Commission found that the transport interconnection charge serves the function of a contribution charge for expanded interconnection for switched transport, and found that there is no need to create a separate contribution charge.

30. The Commission adopted the same tariffing standards for expanded interconnection for switched transport as for expanded interconnection for special access, as modified on reconsideration. Specifically, the cross-connect element is to be generally available at study-area-wide averaged rates, and other features of physical and virtual collocation offerings are to be provided under uniform rates, terms, and conditions for each central office. Under virtual collocation, however, central office electronic equipment dedicated to an interconnector's use may be provided pursuant to individually negotiated tariff provisions, but such rates, terms, and conditions must be tariffed and made available to other similarly situated interconnectors in the same location on a nondiscriminatory basis.

LEC Switched Transport Pricing Flexibility

31. The Commission granted the LECs additional flexibility in the form of density zone pricing, and volume and term discounts. Zone pricing will be permitted, as for special access, when expanded interconnection first becomes operational in a study area. Volume and term discounts generally will be permitted when either 100 DS1-equivalent cross-connects have been taken in the "zone 1" offices in the study area, or an average of 25 DS1-equivalent cross-connects per zone 1 office have been taken. The Commission reserved the question of broader pricing and rate structure flexibility for future proceedings.

Density Zone Pricing

32. LECs with operational switched transport expanded interconnection arrangements implemented in compliance with the Commission's rules will be permitted to set rates for entrance facilities, direct-trunked, and tandem-switched transport that are averaged within zones, but differ between zones. Density zone pricing also will be applicable to dedicated signalling transport. Density zone pricing will not, however, be applied to the transport interconnection charge. The LEC will be responsible for ensuring that its density zone pricing tariff for transport does not become effective before switched transport expanded interconnection is actually operational. A switched transport expanded interconnection offering will be deemed operational for this purpose when an interconnector has taken the expanded interconnection cross-connect element for switched transport, or used facilities collocated pursuant to the Commission's expanded interconnection rules to interconnect with LEC-provided switched transport services. The Commission clarified that an interconnector will be deemed to have taken the cross-connect element when it has ordered the cross-connect and the LEC has provided this service.

33. The Commission required that the LECs use the same density zones for both special access and switched transport. To the extent that LECs use the same density zones already in place for their special access services, the Commission will not require that they file density pricing zone plans in advance of filing tariff changes. Where a LEC is establishing density zones for the first time, however, the guidelines set forth in the Special Access Order for defining density zones will apply. In such cases, the LEC must file and obtain advance approval of its plan, including illustrative tariff pages, as was required for the implementation of zone pricing for special access. As with special access, once a plan is approved, the LEC may file implementing tariff revisions on 31 days notice. In order to reduce administrative burdens and the potential that density zone tariffs could become effective prematurely, the LECs are not to file tariff revisions more than 31 days before their interconnection offering becomes operational. It shall be the responsibility of the LEC to ensure that its density pricing zone tariff does not become effective before expanded interconnection is actually operational in the affected study area.

34. The Commission adopted price cap rules with pricing bands at both the service category and zone levels. The Commission required that price cap LECs implementing density zone pricing for transport create two subindexes in each of the density zones,

one for tandem-switched transport rates, and another for direct-trunked transport, entrance facilities, and dedicated signalling transport. Thus, for instance, if a LEC created three density zones, it would establish six new subindexes for transport: one in each zone for the service category containing direct-trunked transport, entrance facilities, and dedicated signalling transport, and one in each zone for the tandem-switched transport service category. The initial level of each of the subindexes will be set at the pre-existing level of rates at the time density pricing transport tariffs become effective.

35. Price cap LECs will be permitted to raise rates in each zone by up to 5% annually, or lower them by up to 10%, relative to the price cap index applicable to the traffic-sensitive services basket, without triggering any of the additional cost justification or advance notice requirements of the price cap rules. The weighted average of all rates in the same service category, however, will still be subject to the pricing bands for that service category. Thus, for instance, the weighted average of all tandem-switched transport rates could not be raised by more than 2%, or lowered by more than 5%, adjusted for the price cap index, without additional justification.

36. The Commission created a similar system for LECs subject to rate of return regulation that implement expanded interconnection. In the case of these LECs, the Commission will permit the rates for the same services in different zones to diverge by a maximum of 15% in the first year that these tariff revisions are in effect, 30% in the second year, and 45% in the third year.

37. The Commission declined in this proceeding to tie together direct-trunked and tandem-switched transport rates in the way that one party requested. The Commission found that issue to be more appropriately resolved in its proceeding on transport rate structure and pricing, where the relationship among the prices of various transport rate elements is to be addressed. In the Transport Order, the Commission required price cap LECs to put direct-trunked and tandem-switched transport rates into separate service categories with separate pricing bands. The Commission did not in this Order make any change in the price cap treatment of those services.

Volume and Term Discounts

38. The Commission will allow the LECs to offer reasonable volume and term discounts on entrance facilities and interoffice facilities, including pricing that reflects speeds greater than DS3. LECs will be permitted to offer volume and term discounts, however, only when the conditions set forth below have been satisfied.

39. Subject to the tariff filing date and notice period set out below, LECs will be permitted to implement volume and term discounts on their transport rates in a study area only when one of the following conditions has been met: (1) 100 DS1-equivalent switched transport cross-connects have been taken in the "zone 1" offices [3] in the study area; or (2) an average of 25 DS1-equivalent switched transport cross-connects per zone 1 office have been taken. In the unlikely event that interconnectors take expanded interconnection in zone 2 offices in a particular study area before either of the conditions described above is met, the Commission will consider granting waivers to allow cross-connects taken in zone 2 offices to be counted toward satisfaction of these requirements. Petitioners must demonstrate, however, that grant of such a waiver would not undermine the policies set forth in this Order, and would be in the public interest. The Commission delegated authority to the Chief, Common Carrier Bureau to act on such requests for waiver. The LECs also may implement volume and term discounts in study areas without any zone 1 offices after 5 DS1-equivalent cross-connects have been taken in the study area. In the event that a LEC has not implemented density zone pricing, and therefore has no zone 1 offices, volume and term discounts will be permitted in a study area when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched transport traffic in offices in the study area. The Commission delegated authority to the Chief, Common Carrier Bureau, to act on requests for waivers of this requirement. The Bureau shall grant waivers to the extent that a party clearly demonstrates that the specific characteristics of a study area warrant a deviation from this general rule.

40. LECs will be permitted to file tariffs reflecting volume and term discounts no sooner than December 1, 1993. Transport volume and term discounts, when offered by the LECs, will constitute new services under the Commission's price cap rules. Accordingly, tariffs implementing such discounts must satisfy the cost showing requirements for new services. Tariffs are to be filed on 120 days notice, rather than the usual 45 days. It shall be the responsibility of the LEC to ensure that its volume and term discount tariffs do not become effective before the conditions set forth above concerning the number of cross-connects taken have been satisfied. The Commission stated that LECs will not be permitted to increase the transport interconnection charge to offset revenues lost through the offering of volume and term discounts. The Commission stated that the price cap new service rules will not allow for such an increase, and that it did not find such an offsetting increase to be appropriate.

Other Issues

41. In the companion Special Access Second Reconsideration Order, the Commission established a 180 day fresh look period for mixed use facilities (special access facilities over which both special access and switched transport services are provided) when the first switched transport expanded interconnection arrangement becomes operational in an office. This additional fresh look period is governed by the terms set out in the Special Access Second Reconsideration Order. Among other things, it applies *only* to LEC shared use circuits covered by arrangements with terms of three years or more entered into on or before September 17, 1992, the date on which the Special Access Order was adopted.

42. In the companion Special Access Second Reconsideration Order, the Commission specified that all nonrecurring reconfiguration charges paid by interconnectors or their customers must be set no higher than cost-based levels. In addition, the difference between the charges applicable when a customer shifts to an interconnector's services and those applicable when a customer reconfigures its service with the LEC must be cost-based. Those requirements set forth in the Special Access Second Reconsideration Order will be applicable to any nonrecurring reconfiguration charges that the LECs apply to switched transport services. As with special access, no presumption of lawfulness will apply to changes made in the nonrecurring charges that apply when customers reconfigure their switched access services. LECs whose tariffs are not already in compliance are to file tariff revisions implementing these standards for switched transport as soon as possible, but in no event later than November 18, 1993.

43. The customer of record for switched access should be billed for and pay the interconnection charge. The LECs, in assessing interconnection charges, are required to use a procedure similar to the current procedures for

[3] "Zone 1" offices are the offices classified by the LECs under their density zone pricing plans as having the highest traffic density.

billing shared use of facilities for switched and special access. The interconnector would pay the applicable interconnection charge for switched transport on a per-minute basis, plus a pro rata share of any applicable contribution charge that may in the future be implemented for special access.

44. Where an IXC uses a CAP's services, the CAP may order switched access in its own name, in which case the CAP would pay the interconnection charge. Alternatively, the CAP could order switched access in the IXC's name, acting as the IXC's agent, or the IXC may order switched access directly. Where the CAP orders access as an agent for an IXC, the IXC will be considered the switched access customer of record, and will pay the interconnection charge. If, however, the CAP does not deliver its customers' traffic to the LEC in a form that identifies the individual customer, such as on separately identifiable circuits or groups of circuits, then the CAP will be the switched access customer and will pay the interconnection charge.

45. The Commission will require PIU reporting, because the LECs lack jurisdictional information for terminating traffic. The customer of record for switched access must make such reports to the LEC. In cases where an end user may be the switched access customer, however, the IXC providing service to that end user must report PIUs, since the end user may not have the necessary information.

Implementation Schedule and Information Reporting

46. Tier 1 LECs, except NECA pool members, must file expanded interconnection tariffs for switched transport consistent with the requirements of this Order no later than November 18, 1993, on ninety days notice, to be effective February 15, 1994. As required in the Special Access First Reconsideration Order, LEC tariffs must include a procedure for adding LEC locations upon receiving a *bona fide* request from an interconnector. In particular, LEC tariffs must provide that tariff revisions adding LEC locations in which expanded interconnection for switched transport is offered will be filed within 45 days of a *bona fide* request, to be effective upon 45 days notice.

47. Interconnectors that wish the LEC tariffs filed November 18, 1993 to offer expanded interconnection for switched transport at LEC locations in addition to those already designated for collocation in the special access portion of this proceeding, must request those locations by October 18, 1993. Interconnectors also may request expanded interconnection at additional LEC locations between October 18, 1993 and February 15, 1994.

48. Consistent with the Commission's requirements for special access, if an interconnector requests expanded interconnection for switched transport at a LEC location where the LEC has not already been granted an exemption based on lack of space, the LEC may file a petition for a space exemption at the same time that it files its initial tariffs for that location. The initial tariffs do not have to offer physical collocation in the LEC locations subject to a space exemption request. If the Commission denies an exemption request based on space availability, a LEC must file tariff revisions within fourteen days, effective on fifteen days notice, to make physical collocation available at those locations, except that this procedure will not apply to the extent that it would make the tariff provisions for the LEC locations involved effective prior to the effective date of the remainder of the expanded interconnection tariff filing. In such cases, the necessary tariff revisions are to become effective at the same time as the remainder of the expanded interconnection filing. LEC initial tariffs are to offer physical collocation in all locations not covered by an exemption request based on space availability, unless an exemption based on state regulation or the lack of space has already been granted.

49. LECs whose tariffs are not already in compliance with the requirements concerning nonrecurring reconfiguration charges for switched transport are to file tariff revisions implementing those requirements as soon as possible, but in no event later than November 18, 1993.

50. The Commission required the seven Regional Bell Operating Companies and GTE to file reports that identify (1) the parties using expanded interconnection for switched transport in their service territories; and (2) the LEC locations in which they are interconnected. LECs must file these reports annually for the first four years after their initial interstate expanded interconnection tariffs become effective. The Chief, Common Carrier Bureau, will determine the format and specific information to be provided in these reports.

51. Regarding preemption, the Commission reached the same conclusion for switched transport that it did for special access. It adopted the same measures taken in the Special Access Order to minimize the potential conflict between differing federal and state expanded interconnection policies. These include application of the state exemption from the physical collocation requirement. In addition, if a LEC offers both interstate and intrastate expanded interconnection using either physical or virtual collocation, it should provide collocation in a manner that satisfies both federal and state requirements. The Commission stated that, as in special access expanded interconnection, it expects LECs and interconnectors to negotiate reasonable mechanisms to avoid double payment for LEC expanded interconnection. For example, if under a state physical collocation program, an interconnector has paid the full cost of space preparation, the Commission does not expect additional interstate charges to be applied unless further work is required to permit interstate expanded interconnection.

Regulatory Flexibility Act

52. In the Phase I Notice, the Commission certified that the proposed rule changes would not have a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The Commission also stated that to the extent that a PIU reporting requirement would apply to small entities, it would not have a significant economic impact on a substantial number of small business entities. Neither the Chief Counsel for Advocacy of Small Business Administration nor any other commenting party disagreed with the Commission's analysis. The Secretary shall send a copy of this Report and Order, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*

Ordering Clauses

53. Accordingly, *it is ordered,* Pursuant to authority contained in sections 1, 4(i), 201–205, and 214(d) of the Communications Act of 1934, as amended, 47 U.S.C. 151(i), 154, 201–205, and 214(d), that parts 61, 64, 65, and 69 of the Commission's Rules are amended as set forth in the amendatory text.

54. *It is further ordered,* That the policies, rules, and requirements set forth herein are adopted.

55. *It is further ordered,* That all LECs subject to this order shall file tariffs offering switched transport expanded interconnection by November 18, 1993, with an effective date of February 15, 1994.

56. *It is further ordered,* That the Chief, Common Carrier Bureau is delegated the authority specified herein to act upon implementation details pertaining to expanded interconnection for switched transport and LEC pricing flexibility.

57. *It is further ordered,* That except as specifically noted below, the policies, rules, and requirements adopted herein shall be effective sixty days after publication in the **Federal Register.**

58. *It is further ordered,* That the provisions requiring interconnectors that wish the November 18, 1993 tariff filings to include expanded interconnection for switched transport at LEC locations in addition to those already designated for collocation in the special access proceeding to request those locations by October 18, 1993 shall be effective thirty days after publication in the **Federal Register.**

59. *It is further ordered,* That the Alabama Public Service Commission's Request to File Out-of-Time Comments and the Motion to Accept Late-Filed Reply Comments of WilTel, Inc., are granted.

List of Subjects

47 CFR Parts 61 and 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 65

Administrative practice and procedure, Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 61 of title 47 of the Code of Federal Regulations is amended as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.38 is amended by revising paragraph (b)(4) to read as follows:

§ 61.38 Supporting information to be submitted with letters of transmittal.

* * * * *

(b) * * *

* * * * *

(4) For a tariff that introduces a system of density pricing zones, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia,* documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

* * * * *

3. Section 61.47 is amended by adding new paragraph (h)(3) to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

(h) * * *

* * * * *

(3) Those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate a separate subindex in each zone for an aggregated category consisting of direct-trunked transport, entrance facilities, and dedicated signalling transport, and another separate subindex in each zone for tandem-switched transport. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for each of these subindexes shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the traffic-sensitive services basket, measured from the last day of the preceding tariff year.

* * * * *

4. Section 61.49 is amended by revising paragraph (k) to read as follows:

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

* * * * *

(k) For a tariff that introduces a system of density pricing zones, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia,* documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

Part 64 of title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225 unless otherwise noted.

2. Section 64.1401 is amended by redesignating paragraphs (d) through (f) as paragraphs (f) through (h), respectively; redesignating paragraphs (b) and (c) as paragraphs (c) and (d); adding new paragraphs (b) and (e); and revising the following redesignated paragraphs: Introductory text of paragraph (c), paragraphs (c)(1) and (2), the introductory text of paragraph (d), and paragraphs (f), (g)(1) and (2), and (h) to read as follows:

§ 64.1401 Expanded interconnection.

* * * * *

(b) The local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate switched transport services:

(1) In their central offices that are classified as end offices or serving wire centers, as well as at all tandem offices housed in buildings containing such carriers' end offices or serving wire centers for which interstate switched transport expanded interconnection has been tariffed;

(2) Upon *bona fide* request, in tandem offices housed in buildings not containing such carriers' end offices or serving wire centers, or in buildings containing the carriers' end offices or serving wire centers for which interstate switched transport expanded interconnection has not been tariffed; and

(3) Upon *bona fide* request, at remote nodes/switches that serve as rating points for interstate switched transport and that are capable of routing outgoing interexchange access traffic to interconnectors and in which interconnectors can route terminating traffic to such carriers. No such carrier is required to enhance remote nodes/switches or to build additional space to accommodate interstate switched transport expanded interconnection at these locations.

(c) The local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access and switched transport services through physical collocation, except that they may offer virtual collocation instead of physical collocation, upon approval by the Commission, under the following circumstances:

(1) At an individual local exchange carrier location, if that location lacks physical space to accommodate physical collocation;

(2) For new customers at an individual local exchange carrier location, if the space available for physical collocation has been exhausted. Local exchange carriers shall not withdraw their offering of physical collocation for existing customers due to space limitations, absent extraordinary circumstances; or

* * * * *

(d) In addition to the obligations imposed by paragraph (c) of this section, the local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access services through virtual collocation in any local exchange carrier location in which:

* * * * *

(e) In addition to the obligations imposed by paragraph (c) of this section, the local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate switched transport services through virtual collocation in any local exchange carrier location in which:

(1) The carrier is providing intrastate switched transport expanded interconnection through virtual collocation, or

(2) The carrier negotiates interstate switched transport virtual collocation arrangements with one or more interconnectors.

(f) For purposes of this subpart, physical collocation means an offering that enables interconnectors;

(1) To place their own equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, within or upon the local exchange carrier's buildings,

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special and switched access services,

(3) To enter the local exchange carrier's buildings, subject to reasonable terms and conditions, to install, maintain, and repair the equipment described in paragraph (f)(1) of this section, and

(4) To obtain reasonable amounts of space in local exchange carrier locations for the equipment described in paragraph (f)(1) of this section, allocated on a first-come, first-served basis.

(g) For purposes of this subpart, virtual collocation means an offering that enables interconnectors:

(1) To designate or specify equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, to be located within or upon the local exchange carrier's buildings, and dedicated to such interconnectors' use,

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special and switched access services, and

* * * * *

(h) Under both physical collocation offering and virtual collocation offerings for expanded interconnection of fiber optic facilities, local exchange carriers shall provide:

(1) An interconnection point or points at which the fiber optic cable carrying an interconnectors' circuits can enter each local exchange carrier location, provided that the local exchange carrier shall designate interconnection points as close as reasonably possible to each location; and

(2) At least two such interconnection points at any local exchange carrier location at which there are at least two entry points for the local exchange carrier's cable facilities.

3. Section 64.1402 is amended by revising paragraph (c) to read as follows:

* * * * *

(c) Interconnectors shall not be allowed to use interstate special access expanded interconnection offerings to connect their transmission facilities with the local exchange carrier's interstate switched services until that local exchange carrier's tariffs implementing expanded interconnection for switched transport have become effective.

Part 65 of title 47 of the Code of Federal Regulations is amended as follows:

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES

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

Authority: Secs. 4, 201, 202, 203, 218, 403, 48 Stat. 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 65.702 is amended by revising the second sentence in paragraph (b) to read as follows:

§ 65.702 Measurement of interstate services earnings

* * * * *

(b) * * * The access service categories shall be: an aggregated category consisting of Special Access, § 69.113, and Contribution Charges for Special Access Expanded Interconnection, § 69.122; Connection Charges for Expanded Interconnection, § 69.121; Common Line, §§ 69.104–69.105; and an aggregated category consisting of Line Termination, § 69.106, Intercept, § 69.108, Local Switching, § 69.107, Transport, §§ 69.110–69.112, 69.124, 69.125, and Information, § 69.109. * * *

* * * * *

Part 69 of title 47, Code of Federal Regulations, is amended as follows:

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.110 is amended by revising paragraph (e) and adding new paragraphs (f), (g), and (h) to read as follows:

§ 69.110 Entrance facilities

* * * * *

(e) Except as provided in paragraphs (f), (g), and (h) of this section, telephone companies shall not offer entrance facilities based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3 through October 31, 1995.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in entrance facilities charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§ 61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest price density pricing zone (zone 1), telephone companies may offer term and volume discounts in entrance facilities charges within the study area when

interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in entrance facilities charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

3. Section 69.111 is amended by adding new paragraphs (i), (j), and (k) to read as follows:

§ 69.111 Tandem-switched transport and tandem charge

* * * * *

(i) Except in the situations set forth in paragraphs (j) and (k) of this section, telephone companies may offer term and volume discounts in tandem-switched transport charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§ 61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(j) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in tandem-switched transport charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

(k) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in tandem-switched transport charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

4. Section 69.112 is amended by redesignating paragraph (f) as paragraph (i), revising paragraph (e), and adding new paragraphs (f), (g), and (h) to read as follows:

§ 69.112 Direct-trunked transport

* * * * *

(e) Except as provided in paragraphs (f), (g), and (h) of this section, telephone companies shall not offer direct-trunked transport rates based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3 through October 31, 1995.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in direct-trunked transport charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1)) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§ 61.38(b)(4) and 61.49(k) of this section; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in direct-trunked transport charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in direct-trunked transport charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in § 69.121(a)(1) of this chapter) in offices in the study area.

* * * * *

5. Section 69.121 is amended by revising the introductory text of paragraph (a) and paragraph (a)(1) to read as follows:

§ 69.121 Connection charges for expanded interconnection.

(a) Appropriate connection charge subelements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access and switched transport services, as defined in part 64, subpart N of this chapter. To the extent that the same equipment and facilities are used to provide expanded interconnection for both special access and switched transport, the same connection charge subelements shall be used.

(1) A cross-connect subelement shall be established for charges associated with the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the telephone company's equipment and facilities used to provide interstate special or switched access services. Charges for the cross-connect subelement shall not be deaveraged within a study area that is used for purposes of jurisdictional separations.

* * * * *

6. Section 69.123 is amended by revising the heading, revising paragraphs (a) and (c), redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d), to read as follows:

§ 69.123 Density pricing zones for special access and switched transport.

(a) Telephone companies may establish a reasonable number of density pricing zones within each study area that is used for the purposes of jurisdictional separations, in which at least one interconnector has taken the subelement of connection charges for expanded interconnection described in § 69.121(a)(1) of this chapter. Only one set of density pricing zones shall be established within each study area, to be used for the pricing of both special and switched access pursuant to paragraphs (c) and (d) of this section.

* * * * *

(c) Notwithstanding § 69.3(e)(7) of this chapter, in study areas in which at least one interconnector has taken a cross-connect, as described in § 69.121(a)(1) of this chapter, for the transmission of interstate special access traffic, telephone companies may charge rates for special access subelements of DS1, DS3, and such other special access services as the Commission may designate, that differ depending on the zone in which the service is offered, provided that the charges for any such service shall not be deaveraged within any such zone.

(1) A special access service subelement shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A special access service subelement provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains one of the locations between which the service is offered.

(d) Notwithstanding § 69.3(e)(7) of this chapter, in study areas in which at least one interconnector has taken a cross-connect, as described in § 69.121(a)(1) of this chapter, for the transmission of interstate switched traffic, or is using collocated facilities to interconnect with telephone company interstate switched transport services, telephone companies may charge rates for subelements of direct-trunked transport, tandem-switched transport, entrance facilities, and dedicated signalling transport that differ depending on the zone in which the service is offered, provided that the charge for any such service shall not be deaveraged within any such zone. Telephone companies may not, however, charge rates for the interconnection charge that differ depending on the zone in which the service is offered.

(1) A switched transport service subelement shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A switched transport service subelement provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains either of the locations between which the service is offered.

* * * * *

[FR Doc. 93–22944 Filed 9–16–93; 8:45 am]
BILLING CODE 6712–01–M

federal register

Friday
September 17, 1993

Part X

Department of the Interior

Bureau of Land Management

Montana; Lewistown District Advisory Council Meeting

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–4830–12]

District Advisory Council Meeting; (Montana)

The Lewistown District Advisory Council will meet on September 20, 1993 at 10 a.m. in the Lewistown District Office, Lewistown, Montana.

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: District advisory council meeting.

SUMMARY: The Lewistown District Advisory Council will meet on September 20, 1993 at 10 a.m. in the Lewistown District Office, 1160 Airport Road, Lewistown, Montana. The agenda will include:

1. Discussing implementation of the Upper Missouri National Wild and Scenic River Management Plan Update.
2. Touring potential river acquisition and development sites.
3. Discussing the proposed rangeland reform package.

FOR FURTHER INFORMATION CONTACT: David L. Mari, District Manager, Bureau of Land Management, Box 1160, Lewistown, Montana 59457.

SUPPLEMENTAL INFORMATION: The meeting will be open to the public and interested persons may make oral comments at the conclusion of the meeting or may file written comments for the council's consideration. Members of the public must provide their own transportation to all portions of this meeting. Those wishing to make oral comments must notify the District Manager, Bureau of Land Management, Box 1160, Lewistown, Montana 59457. The Lewistown District Advisory Council is authorized under section 309 of the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1739.

Dated: September 7, 1993.

David L. Mari,

District Manager.

[FR Doc. 93–22966 Filed 9–16–93; 8:45 am]

BILLING CODE 4310–DN–M

Federal Register

Friday
September 17, 1993

Part XI

The President

Proclamation 6592—National Hispanic Heritage Month, 1993

Executive Order 12864—United States Advisory Council on the National Information Infrastructure

Federal Register
Vol. 58, No. 179
Friday, September 17, 1993

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Title 3—

The President

Proclamation 6592 of September 15, 1993

National Hispanic Heritage Month, 1993

By the President of the United States of America

A Proclamation

One of our Nation's greatest strengths is its vast diversity. The mosaic of races, ethnicities, and religious groups that comprise America provides us with a powerful energy and an ability to see the world from many viewpoints. Since our country's inception, Hispanic Americans have always been an integral part of this great mosaic. Indeed the history, culture, and traditions of America are greatly influenced by the contributions of those individuals who have their origins in Spain and Latin America.

While the impact of the Hispanic culture is manifest in our Nation's customs and traditions, this legacy continues on beyond the pages of history. Today, Hispanic Americans continue to make important contributions to our society. It would be impossible to think of American Government, business, industry, Armed Forces, agriculture, science, sports, and the arts without noting the presence and full participation of Hispanic Americans. Ellen Ochoa, who has served America proudly as our first Hispanic woman astronaut; Cesar Chavez, whose lifelong passion and commitment uplifted the lives of millions of agricultural workers; Secretary of Housing and Urban Development Henry Cisneros and Secretary of Transportation Federico Peña; Master Sergeant Roy P. Benavidez, who won the Medal of Honor for his service in Vietnam; and millions of other Hispanic Americans whose hard work keeps our Nation moving—all of these patriotic Americans draw their heritage from the rich Hispanic culture.

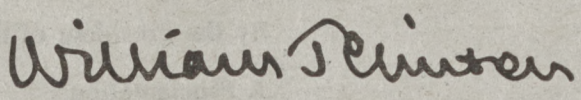
Many of the traditions that Americans hold so dear are deeply rooted in the Hispanic American values of a strong sense of family, devotion to religious beliefs, and dedication to liberty and democracy. Committed dearly to these precious ideals, Hispanic Americans are helping all of us to uphold the legacy of our democratic society.

America is an ongoing experiment—an unfinished work. There is much for all of us still to accomplish in order to ensure a brighter and more peaceful world for our children. I know that Hispanic Americans, always conscious of the traditions of their forebears, will continue to work with Americans of every racial, religious, and ethnic background to confront our Nation's health, housing, educational, and human rights concerns. The principles that are such a part of the Hispanic American tradition will serve all of our people well as we strive to address the challenges that the future holds for us.

To commemorate the Hispanic American contributions to our Nation, the Congress, by Public Law 90–498 of September 17, 1968, as amended, has authorized and requested the President to issue annually a proclamation designating the month beginning September 15 and ending October 15 as "National Hispanic Heritage Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month beginning September 15, 1993, and ending October 15, 1993, as National Hispanic Heritage Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

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



[FR Doc. 93–23017
Filed 9–15–93; 4:57 pm]
Billing code 3195–01–P

Presidential Documents

Executive Order 12864 of September 15, 1993

United States Advisory Council on the National Information Infrastructure

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2) ("Act"), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established in the Commerce Department the "United States Advisory Council on the National Information Infrastructure" ("Council"). The Council shall consist of not more than 25 members to be appointed by the Secretary of Commerce ("Secretary").

(b) The Secretary shall appoint from among the members of the Council officials to serve as chairperson(s) or vice-chairperson(s) of the Council as he shall deem appropriate.

Sec. 2. *Functions.* (a) The Council shall advise the Secretary on matters related to the development of the National Information Infrastructure. The National Information Infrastructure shall be the integration of hardware, software, and skills that will make it easy and affordable to connect people with each other, with computers, and with a vast array of services and information resources.

(b) The Council shall advise the Secretary on a national strategy for promoting the development of a National Information Infrastructure. Issues that the Council may address include, but are not limited to:

(1) the appropriate roles of the private and public sectors in developing the National Information Infrastructure;

(2) a vision for the evolution of the National Information Infrastructure and its public and commercial applications;

(3) the impact of current and proposed regulatory regimes on the evolution of the National Information Infrastructure;

(4) national strategies for maximizing the benefits of the National Information Infrastructure, as measured by job creation, economic growth, increased productivity, and enhanced quality of life;

(5) national strategies for developing and demonstrating applications in areas such as electronic commerce, agile manufacturing, lifelong learning, health care, government services, and civic networking;

(6) national security, emergency preparedness, system security, and network protection implications;

(7) national strategies for maximizing interconnection and interoperability of communications networks;

(8) international issues associated with the National Information Infrastructure;

(9) universal access; and

(10) privacy, security, and copyright issues.

(c) The chairperson(s) may, from time to time, invite experts to submit information to the Council and may form subcommittees of the Council to review specific issues.

Sec. 3. *Administration.* (a) The heads of executive agencies shall, to the extent permitted by law, provide to the Council such information as it may require for the purpose of carrying out its functions.

(b) Members of the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law, including 5 U.S.C. 5701–5707 and section 7(d) of the Act, for persons serving intermittently in government service.

(c) The Department of Commerce shall provide the Council with administrative services, facilities, staff, and other support services necessary for the performance of its functions.

Sec. 4. *General.* (a) Notwithstanding any other Executive order, the functions of the President under the Act that are applicable to the Council, except that of reporting to Congress, shall be performed by the Secretary in accordance with guidelines that have been issued by the Administrator of General Services.

(b) The Council shall exist for a period of two years from the date of this order, unless the Council's charter is subsequently extended prior to the aforementioned date.

(c) Members of the Council and its subcommittee shall not be considered special government employees for any purpose or for purposes of 18 U.S.C. 201–203, 205, 207–209, and 218–219.

William J. Clinton

THE WHITE HOUSE,
September 15, 1993.

[FR Doc. 93–23039
Filed 9–16–93; 10:59 am]
Billing code 3195–01–P

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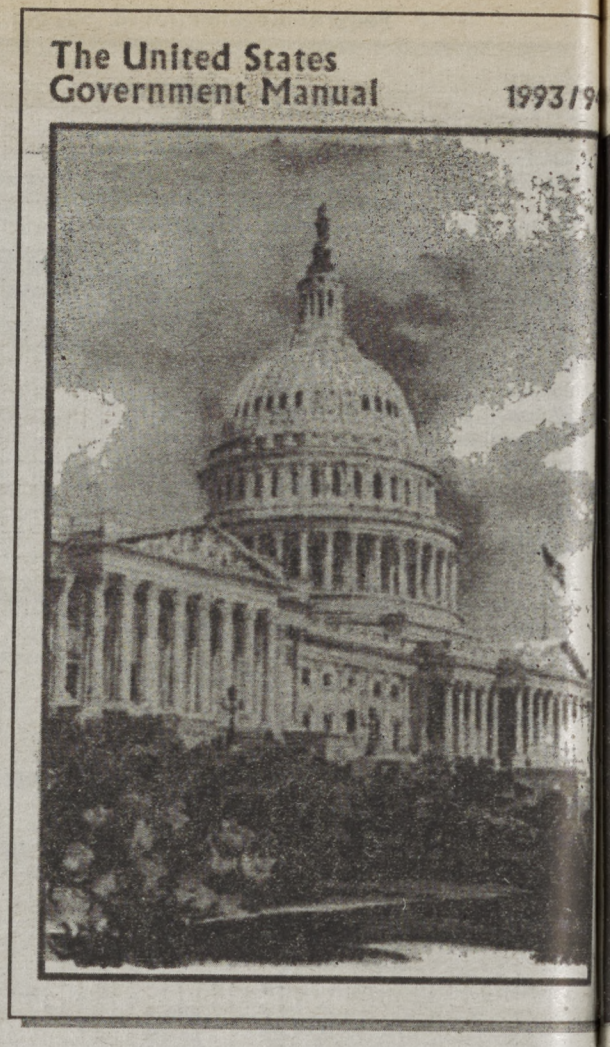
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Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

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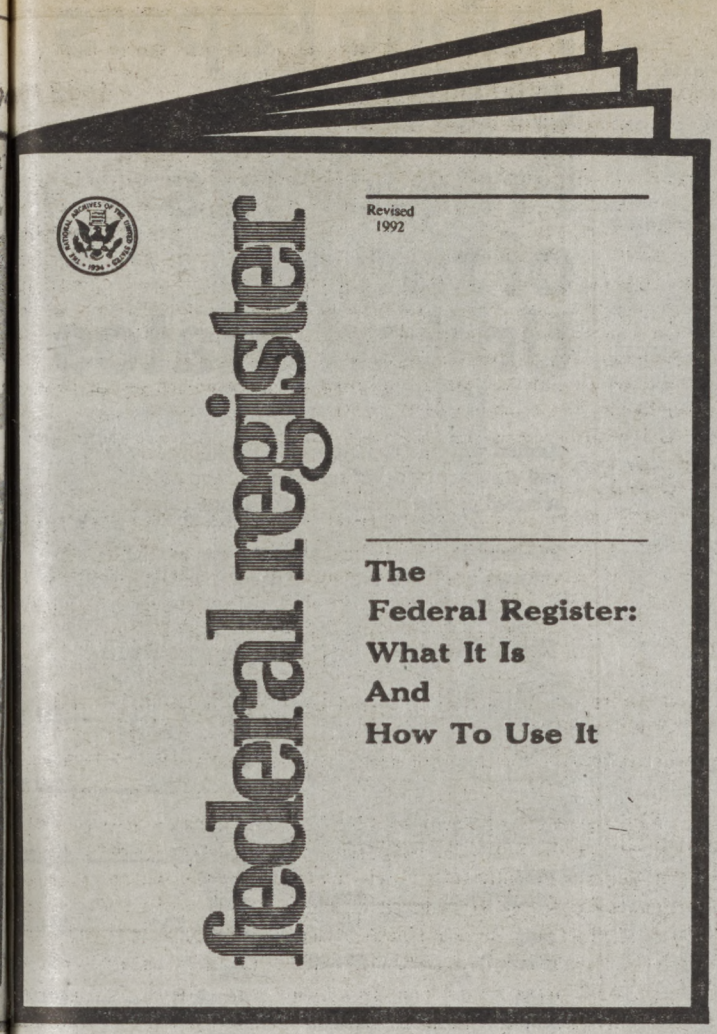
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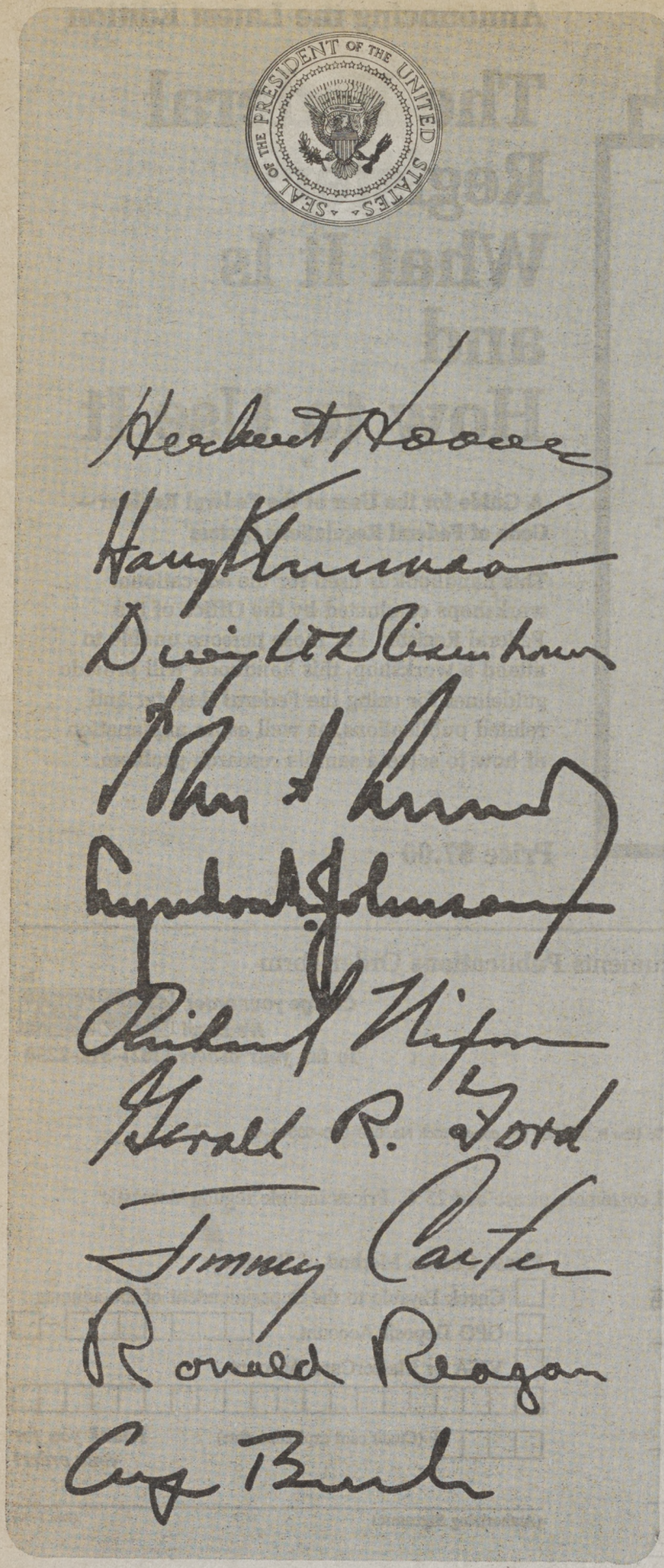
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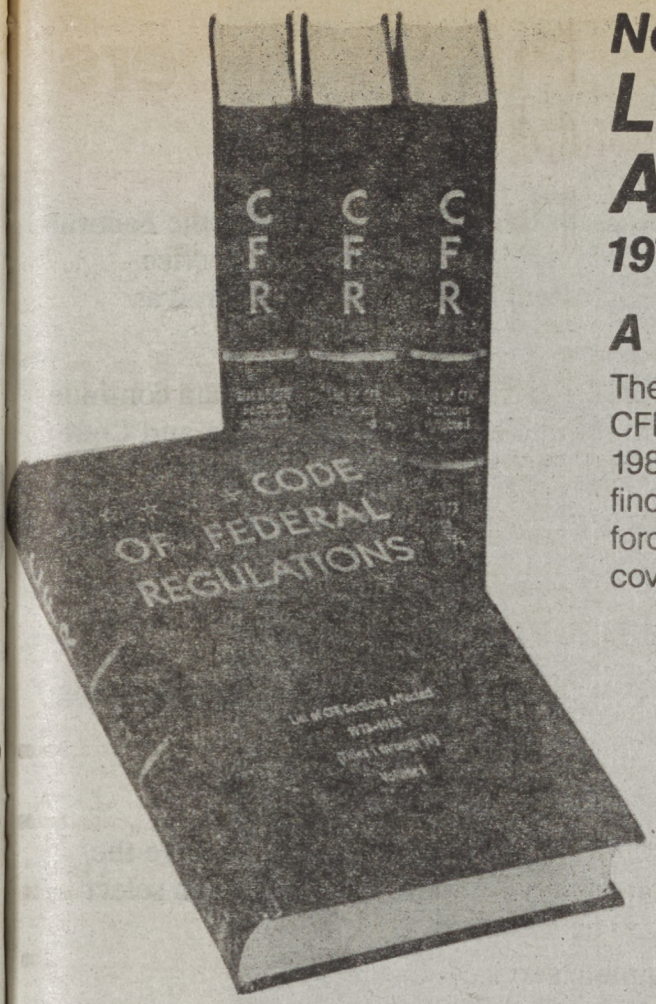
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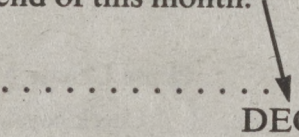
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