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

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3. The important elements of typical Federal Register documents.
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(two briefings)

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Presidential Documents

Title 3—

The President

Proclamation 6682 of May 3, 1994

Public Service Recognition Week, 1994

By the President of the United States of America

A Proclamation

At a time when Government is confronting the challenge of serving the public more efficiently and effectively than ever while facing substantial resource constraints, it is especially fitting to recognize the dedication of our Nation's public employees. The Federal Government, in its efforts to work better and cost less, has often found inspiration in the creative innovations initiated by State and local government employees. Moreover, the new spirit of partnership between labor and management in the public sector has reduced the time and money wasted in unproductive adversarial proceedings so that more attention can be devoted to improving the services provided to the public.

Americans at all levels of government have made a significant difference in the lives of their fellow citizens, and it is most appropriate that we set aside this week to honor them. Public employees educate our children, administer programs to aid needy citizens, conduct biomedical research, help protect the environment, ensure the safety of our food supply, maintain our transportation networks, provide for the common defense, and enforce the Constitution and laws of the United States. These devoted women and men bring enormous talent, knowledge, and integrity to their work.

In recognition of the achievements of government employees, the Congress, by Senate Joint Resolution 150, has designated the week of May 2, 1994, through May 8, 1994, as "Public Service Recognition Week" and has authorized and requested the President to issue a proclamation calling for observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of May 2, 1994, through May 8, 1994, as Public Service Recognition Week. I urge the people of the United States to participate in appropriate ceremonies and activities to recognize the vital contributions of employees of Federal, State, and local government. I also encourage young Americans to learn more about the work done by public employees and to consider careers in public service.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94-11117
Filed 5-4-94; 2:01 pm]
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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch Program and School Breakfast Program; Competitive Foods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On January 6, 1993, the Food and Drug Administration announced in a final rule that, effective May 8, 1994, the current food label reference values, the U.S. Recommended Daily Allowances (U.S.RDAs), will be identified as the Reference Daily Intakes, or RDIs. This change is to be one of designation only and the reference values are not being modified. The purpose of this rule is to replace the term "U.S.RDA" wherever used in Food and Nutrition Service program regulations with "RDI".

EFFECTIVE DATE: May 8, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Lori LeGault, Section Head, Food Science and Nutrition Section, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, (703) 305–2556.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Acting Administrator of FNS has certified that this rule will not have a significant economic impact on a substantial number of small entities. The actual values used in the regulation are not being changed, only the name for the values is changing. Therefore, this change will have no effect on small entities.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any state or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Catalog of Federal Domestic Assistance

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under No. 10.555 and 10.553 respectively. Both programs are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and final rule-related notice at 48 FR 29112, June 24, 1983).

Paperwork Reduction Act

No new data collection or recordkeeping requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3502) are included in this rule.

The Administrator of FNS has determined pursuant to 5 U.S.C. 553(b)(3)(B) that prior notice and comment on this rule prior to implementation is unnecessary and contrary to public interest, and therefore good cause exists for making this rule effective without prior public comment. This document makes technical changes and imposes no new requirements. This rule updates 7 CFR parts 210 and 220 to incorporate a change made in the Food and Drug Administration's (FDA) nutrition labeling regulations. There is no need for public comment because the change from the U.S.RDA reference to the RDI reference does not effect the basis of the regulation. In addition, FDA has already made this change in the nutrition labeling regulations the competitive foods rule must make the change in order to refer to an accepted reference.

Background

The Food and Drug Administration (FDA) requires that certain food products be labeled with information sufficient to apprise consumers of the nutritional content and value of the products. Food product labels are required to indicate on a per serving basis the percentage contribution of the product to the recommended daily consumption of certain vitamins and minerals considered essential for human nutrition. The amounts of these vitamins and minerals recommended for daily consumption are known as the U.S. Recommended Daily Allowances or U.S.RDAs. The U.S.RDAs are derived by FDA from the "Recommended Daily Allowances," published by the Food and Nutrition Board of the National Academy of Sciences-National Research Council (NAS–NRC). The Department employs the U.S.RDAs in the National School Lunch, 7 CFR 210.11(b); Appendix B, and School Breakfast, 7 CFR 220.12(b)(1); appendix B, program regulations in describing foods of minimal nutritional value which are prohibited from being sold in school food service areas during regular meal service. The NAS–NRC Recommended Daily Allowances are referenced by the Department in the National School Lunch and Food Stamp Program regulations to describe nutritional goals of the programs.

In part to eliminate the public's confusion from the widespread use of both the U.S.RDAs and the NAS–NRC Recommended Daily Allowances, and in part to reflect recent increases in the scientific knowledge concerning human nutrition requirements, FDA is discontinuing use of the U.S.RDAs as of May 8, 1994. On that date, the U.S.RDAs will be replaced by the Reference Daily Intakes, or RDIs, and the Daily Reference Values or DRVs. RDIs will be used to describe recommended vitamin, mineral and protein consumption and DRVs in discussing fats and carbohydrates. RDI and DRV information will not be used on food product labels. Rather, FDA is adopting a new nutrition labeling reference,

known as the Daily Value, which will combine RDI and DRV information and will be required on most packaged food products.

To coincide with FDA's replacement of the U.S.RDAs with RDIs and DRVs, the Department is updating its references to the U.S.RDAs in the regulations it administers. Effective May 8, 1994, the National School Lunch and School Breakfast Program regulations will be amended by substituting the term RDI in place of U.S.RDA. The Department's current references to the U.S.RDAs involve only vitamin and mineral content of food products. Therefore, no reference need be made by the Department to the DRVs as that term will refer only to the fats and carbohydrates. References to the NAS–NRC Recommended Daily Allowances in 7 CFR 210.10(b) and 272.5(b) will be unaffected by this regulatory change.

List of Subjects

7 CFR Part 210

Food Assistance Programs, National School Lunch Program, Commodity School Program, Grant programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food Assistance Programs, School Breakfast Programs, Grant programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 210 and 220 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for part 210 continues to read as follows:

Authority: The provisions of part 210 issued under sec. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 17511760, 1779.

2. In § 210.11, the first sentence of paragraph (a)(2) is revised to read as follows:

§ 210.11 Competitive food services.

(a) * * *

(2) *Food of minimal nutritional value* means: (i) In the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intakes (RDI) for each of eight specified nutrients per serving; and (ii) in the case of all other foods, a food which provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than five percent of the RDI for each of eight specified nutrients per serving. * * *

* * * * *

3. In appendix B, Categories of Foods of Minimal Nutritional Value, paragraph (b)(1) is amended by removing the acronym "USRDA" from the second sentence and adding the words "Reference Daily Intake (RDI)" in its place, and by removing the acronym "USRDA" from the third sentence and adding the acronym "RDI" in its place.

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for part 220 continues to read as follows:

Authority: Secs. 4 and 10 of the Child Nutrition Act of 1966, 80 Stat. 886, 889 (42 U.S.C. 1773, 1779), unless otherwise noted.

2. In § 220.2, the first sentence of paragraph (i-1) is revised to read as follows:

§ 220.2 Definitions.

* * * * *

(i-1) *Foods of minimal nutritional value* means: (1) In the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intake (RDI) for each of eight specified nutrients per serving; (2) in the case of all other foods, a food that provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than five percent of the RDI for each of eight specified nutrients per serving. * * *

* * * * *

§ 220.12 [Amended]

3. In § 220.12, the second and third sentences of paragraph (b)(1) are amended by removing the acronym "USRDA" and adding the acronym "RDI" in its place.

Dated: March 31, 1994.

Ellen Haas,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 94–10887 Filed 5–5–94; 8:45 am]

BILLING CODE 3410–30–U

Farmers Home Administration

7 CFR Part 1980

RIN 0575–AB67

Business and Industrial Loan Program

AGENCY: Farmers Home Administration and Rural Development Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) and Rural Development Administration (RDA) adopt their interim rule published August 3, 1993 (58 FR 41171), as a final rule without change. This action makes final the rule removing the deadline for filing applications for loan guarantees under the authority of the Dire Emergency Supplemental Appropriations Act, Public Law 102–368. The intended effect is to provide no regulatory deadline for filing such applications.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Loan Specialist, Rural Development Administration, USDA, Ag. Box 3221, Washington, DC 20250–3221, Telephone (202) 720–6819.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Programs Affected

The Catalog of Federal Domestic Assistance program impacted by this action is:

10.768 Business and Industrial Loans.

Intergovernmental Review

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983, Business and Industrial Loans are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA and RDA conduct intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

Civil Justice Reform

This document has been reviewed in accordance with Executive Order 12778. It is the determination of RDA and FmHA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA and RDA have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969,

Public Law 91–190, an Environmental Impact Statement is not required.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and has been assigned OMB control number 0575–0029 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Send comments regarding this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0629), Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, FmHA, Ag Box 0743, Washington, DC 20250.

Discussion of the Rule

Business and Industry Disaster (BID) loans guaranteed under the authority of the Dire Emergency Supplemental Appropriations Act cover costs arising from the consequences of natural disasters, such as Hurricanes Andrew and Iniki and Typhoon Omar, that occur after August 23, 1992, and receive a Presidential declaration. Since the legislative authority to issue guarantees under BID expired on September 30, 1993, a deadline of July 31, 1993, to file applications was placed in the regulation. This was intended to give RDA staff time to process any applications before the guarantee authority expired. Due to additional disasters that occurred in 1993, the application deadline is removed to allow additional time to apply for assistance.

This action was published as an interim rule in the **Federal Register** on August 3, 1993 (58 FR 41171), with a comment period ending September 2, 1993. No comments were received.

List of Subjects in 7 CFR Part 1980

Loan programs—Business and Industry—Rural development assistance, Rural areas.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations, is amended by adopting the interim rule published August 3, 1993 (58 FR 41171), as a final rule without change.

Dated: April 28, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–10884 Filed 5–5–94; 8:45 am]

BILLING CODE 3410–07–U

FARM CREDIT ADMINISTRATION

12 CFR Part 608

RIN 3052–AB02

Collection of Claims Owed the United States; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 608 on March 21, 1994 (59 FR 13187). The final regulation adds 12 CFR part 608 to provide procedures for the FCA to administer claims owed to the United States arising from activities under FCA jurisdiction. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 6, 1994.

EFFECTIVE DATE: The regulation adding 12 CFR part 608, published on March 21, 1994 (59 FR 13187) is effective May 6, 1994.

FOR FURTHER INFORMATION CONTACT:

John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

Philip J. Shebest, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

Authority: 12 U.S.C. 2252(a)(9) and (10).

Dated: May 3, 1994.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 94–10995 Filed 5–5–94; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–57–AD; Amendment 39–8910; AD 94–10–03]

Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F Series Airplanes Equipped With Honeywell Flight Management Computers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and MD–11F series airplanes. This action requires deactivation of the Visual Omnidirectional Receiver/Localizer (VOR/LOC) option by revising the program pin wiring for the Flight Management Computer/Flight Control Computer (FMC/FCC). This amendment is prompted by reports of uncommanded roll mode changes on these airplanes during takeoff and landing due to incorrect initialization of VOR/LOC logic within the FMC. The actions specified in this AD are intended to prevent the airplane from deviating from its intended flight path due to an uncommanded change in the course of direction.

DATES: Effective on May 23, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 23, 1994.

Comments for inclusion in the Rules Docket must be received on or before July 5, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–57–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: business Unit Manager, Technical Administrative support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5343; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: The FAA has received reports of uncommanded

roll mode changes that have occurred on McDonnell Douglas Model MD–11 series airplanes during takeoff and landing. The airplanes involved in these incidents have been equipped with Honeywell Flight Management Computers (FMC) having part numbers 4059050–907 and 4059050–908. The incidents occurred when these FMC's were operating with the Visual Omnidirectional Receiver/Localizer (VOR/LOC) option selected.

Investigation revealed that these incidents of uncommanded roll mode changes were caused by one of the two FMC's not automatically resetting or clearing all VOR mode logic upon landing. If the VOR mode was selected on the previous inbound flight, and if this VOR mode is not automatically cleared after the airplane lands, the VOR logic may remain valid (in operation) in one of the two FMC's onboard the airplane. If, during a subsequent flight, the autoflight system is engaged to the FMC that still has the valid VOR logic [either by disconnecting the autopilot (AP) or by swapping autopilots (AP1 to AP2, or vice versa) with the "AUTOFLIGHT" switch], that FMC will automatically command the airplane into a VOR roll mode. The airplane will then follow this VOR mode logic guidance and fly in a direction not planned by the flight crew. Such an uncommanded change in course direction, if not corrected, could result in the airplane deviating from its intended flight path.

The FAA has reviewed and approved McDonnell Douglas MD–11 Alert Service Bulletin A34–55, dated April 22, 1994, that describes procedures for deactivating the VOR/LOC option on the subject Honeywell FMC's by removing the VOR/LOC pin from the Flight Management Computer/Flight Control Computer (FMC/FCC) configuration plug on the main avionics rack. This procedure will minimize the possibility of uncommanded roll mode changes.

Since an unsafe condition has been identified that is likely to exist or develop on other Model MD–11 and MD–11F series airplanes of the same type design, this AD is being issued to prevent the airplane from deviating from its intended flight path due to an uncommanded change in the course of direction. This AD requires deactivating the VOR/LOC option on certain Honeywell FMC's by removing the VOR/LOC pin from the FMC/FCC configuration plug on the main avionics rack. The actions are required to be accomplished in accordance with the service bulletin described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–57–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–10–03 McDonnell Douglas: Amendment 39–8910. Docket 94–NM–57–AD.

Applicability: Model MD–11 and MD–11F series airplanes; equipped with Honeywell Flight Management Computers having part numbers 4059050–907 or 4059050–908; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the airplane from deviating from its intended flight path due to an uncommanded change in the course of direction, accomplish the following:

(a) Within 30 days after the effective date of this AD, deactivate the Visual Omnidirectional Receiver/Localizer (VOR/LOC) option by removing the VOR/LOC pin from the Flight Management Computer/Flight Control Computer (FMC/FCC) configuration plug on the main avionics rack, in accordance with McDonnell Douglas MD–11 Alert Service Bulletin A34–55, dated April 22, 1994.

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

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

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The deactivation procedure shall be done in accordance with McDonnell Douglas MD–11 Alert Service Bulletin A34–55, dated April 22, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: business Unit Manager, Technical Administrative support, Dept. L51, M.C. 2–98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 23, 1994.

Issued in Renton, Washington, on April 29, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–10776 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 92–ASO–22]

Alteration of Jet Routes; FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the descriptions of several jet routes in Florida. Alteration of the current jet route structure between Charleston, SC, Ormond Beach, FL, Savannah, GA, and Craig, FL, will enhance safety by increasing separation between Jet Routes J–79, J–121, J–174, and J–103 and the western boundary of Warning Areas W–157, W–158, and W–159.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

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:

History

On April 5, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of several jet routes in Florida (58 FR 17541). An increase in the separation of the current jet route structure between Charleston, SC, Ormond Beach, FL, Savannah, GA, and Craig, FL, from the western boundary of Warning Areas W–157, W–158, and W–159 will enhance safety.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to the proposal was received from the Air Transport Association (ATA). The ATA believes that readjusting the boundaries of the warning areas is a better option for increasing the airspace clearance between the jet routes and the warning areas rather than creating doglegs. ATA contends that these changes will increase route mileage approximately .7 nautical miles, which translates into increased flight times, and increased operating costs to the airline industry.

In order to ensure adequate airspace separation between the warning areas' western boundaries and Jet Routes J–79, J–121, J–174, and J–103, it is necessary to realign these jet routes. Experience has shown that during the winter months, very strong westerly winds exist at the jet route altitudes which can cause aircraft to rapidly drift east of course toward the western boundaries of the warning areas. By moving the jet routes further to the west, this action will enhance safety by increasing the distance from the warning areas.

Adjusting the boundaries of the warning areas is not a feasible alternative at this time. Radar, telemetry equipment, and other range resources are strategically located based on existing warning area boundaries in order to support the essential military activity. Relocation of these resources would be a costly and lengthy process. Therefore, the FAA has determined that the most expeditious and cost-effective alternative is to alter the current jet route structure. Except for editorial changes, and the previous amendments to Jet Routes J–79 and J–174 (contained in Airspace Docket No. 92–ANE–45; effective May 27, 1993), this amendment is the same as that proposed in the notice. Jet routes are published in paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The jet routes listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of several jet routes in Florida. Alteration of the current jet route structures between Charleston, SC, Ormond Beach, FL, Savannah, GA, and Craig, FL, will increase separation from the western boundary of Warning Areas W–157, W–158, and W–159 and the jet routes.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 2004—Jet Routes

* * * * *

J–51 [Revised]

From Craig, FL; INT Craig 004° and Savannah, GA, 197° radials; Savannah; Columbia, SC; INT Columbia 042° and Flat

Rock, VA, 212° radials; Flat Rock; Nottingham, MD; Dupont, DE; to Yardley, NJ.

* * * * *

J–55 [Revised]

From Miami, FL; INT Miami 335° and Craig, FL, 192° radials; Craig; INT Craig 004° and Savannah, GA, 197° radials; Savannah; Charleston, SC; Florence, SC; INT Florence 003° and Raleigh-Durham, NC, 224° radials; Raleigh-Durham; INT Raleigh-Durham 035° and Hopewell, VA, 234° radials; Hopewell; to INT Hopewell 030° and Nottingham, MD, 174° radials. From Sea Isle, NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Providence, RI; Boston, MA; Kennebunk, ME; Presque Isle, ME; to Mont Joli, PQ, Canada, excluding the portion within Canada.

* * * * *

J–79 [Revised]

From Key West, FL, via Miami, FL; Palm Beach, FL; Vero Beach, FL; Ormond Beach, FL; INT Ormond Beach 356° and Savannah, GA, 184° radials; INT Savannah 184° and Charleston, SC, 212° radials; Charleston; Tar River, NC; Franklin, VA; Salisbury, MD; INT Salisbury 018° and Kennedy, NY, 218° radials; Kennedy; INT Kennedy 080° and Nantucket, MA, 254° radials; INT Nantucket 254° and Marconi, MA, 205° radials; Marconi; INT Marconi 006° and Bangor, ME, 206° radials; Bangor.

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J–103 [Revised]

From Ormond Beach, FL; INT Ormond Beach 356° and Savannah, GA, 184° radials; Savannah.

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J–121 [Revised]

From Craig, FL; INT Craig 016° and Charleston, SC, 212° radials; Charleston; Kinston, NC; Norfolk, VA; INT Norfolk 023° and Snow Hill, MD, 211° radials; Snow Hill; Sea Isle, NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Sandy Point, RI; INT Sandy Point 031° and Kennebunk, ME, 190° radials; to Kennebunk.

* * * * *

J–174 [Revised]

From Craig, FL; INT Craig 016° and Charleston, SC, 212° radials; Charleston; Wilmington, NC; Dixon NDB, NC; Norfolk, VA; INT Norfolk 023° and Snow Hill, MD, 211° radials; Snow Hill; Hampton, NY; INT Hampton 069° and Marconi, MA, 228° radials; Marconi, to the INT of Marconi 090° and Nantucket, MA, 066° radials. Airspace below FL 240 is excluded between Snow Hill and lat. 38°45'00"N., long. 74°43'59"W. Airspace above FL 410 is excluded between Snow Hill and Hampton.

* * * * *

Issued in Washington, DC, on April 28, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–10957 Filed 5–5–94, 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 94–AAL–02]

Establishment of Class E Airspace; Saint George Island, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Saint George Island, AK. A Non-Directional Beacon/Distance Measuring Equipment (NDB/DME) standard instrument approach procedure (SIAP) has been developed for the new St. George Airport at Saint George Island Controlled airspace extending from 700 and 1200 feet above ground level (AGL) is needed for aircraft executing the approach and departure procedures. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

EFFECTIVE DATE: 0901 UTC, August 18, 1994.

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

SUPPLEMENTARY INFORMATION:

History

On February 23, 1994, the FAA proposed to amend part 10 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Saint George Island, AK. (59 FR 12874.) A SIAP was being developed for the New St. George Airport at Saint George Island. The proposal was to add controlled airspace extending from 700 feet and 1200 feet AGL for Instrument Flight Rules (IFR) operations during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received.

Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," and controlled airspace extending upward from 700 or 1200 feet above ground level is now Class E airspace. Class E airspace designations for airspace areas extending upward from 700/1200 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993).

The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Saint George Island, AK, to provide controlled airspace from 700/1200 feet AGL for aircraft executing the NDB/DME SIAP and departure procedures into and out of the New St. George Airport at Saint George Island.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK ES Saint George Island, AK [New]
New St. George Airport, AK
(lat. 56°34'42"N, long. 169°39'42"W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the New St. George Airport; and that airspace extending upward from 1,200 feet above the surface within a 10-mile radius of the New St. George Airport.

* * * * *

Issued in Anchorage, AK, on April 26, 1994.

Willis C. Nelson,

Manager, Air Traffic Division, Alaska Region.

[FR Doc. 94–10956Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ANM–42]

Amendment to Class E Airspace; Portland, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at the Portland International Airport, Portland, OR. Establishment of a new instrument approach procedure requires additional controlled airspace for the procedure. The Class E airspace will be depicted on aeronautical charts for pilot reference when the new approach procedures become effective.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 93–ANM–42, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On February 23, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace for the Portland International Airport, Portland, OR (59 FR 8568). Except for a typographical omission of one line in the description, and reconsideration and deletion of another line in the description, this rule is the same. No additional airspace, except that required for the new procedure, is required to compensate for those omissions and deletions. Interested parties were invited to participate in the rulemaking process by submitting such written data, views, or arguments as they desired. No comments were received.

Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the terms "control zone extension" and "transition area," replacing them with the designation "Class E airspace." Class E airspace designations for airspace areas extending upward from the surface of the earth, and Class E airspace designations for airspace areas extending upward from 700 feet above ground level, are published in Paragraphs 6003 and 6005 respectively, of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order. The coordinates in this final rule are in North American Datum 83.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends Class E airspace at Portland, Oregon. It will provide controlled airspace for a new instrument approach procedure at the Portland International Airport. Amendment of the Class E airspace will result in greater safety and efficiency at, and in the vicinity of, the airport. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 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 6003 Class E airspace areas designated as an extension to a Class C surface area

* * * * *

ANM OR E3 Portland, OR [Revised]

Portland International Airport, OR
(lat. 45°35′19″N., long. 122°35′51″W.)
Battleground VORTAC, WA
(lat. 45°44′52″N., long. 122°35′30″W.)
Portland VOR/DME, OR
(lat. 45°35′37″N., long. 122°36′23″W.)
Laker NDB, OR
(lat. 45°32′29″N., long. 122°27′44″W.)
OM
(lat. 45°37′24″N., long. 122°41′48″W.)
Pearson Airpark, WA
(lat. 45°37′14″N., long. 122°39′23″W.)

That airspace extending upward from the surface within 1.8 miles each side of the Battleground VORTAC 180° radial extending from the 5-mile radius of Portland International Airport to 3.1 miles south of the VORTAC and within 2.2 miles each side of the Portland Runway 10R ILS localizer west course extending from the 5-mile radius of the airport to 0.9 miles west of the OM; and that airspace within 3.8 miles each side of the Portland VOR/DME 055° radial extending from the 5-mile radius of the airport to 19 miles northeast of the VOR/DME; and that airspace within 1.8 miles north and 2.7 miles south of the 299° bearing from the Laker NDB, extending from the 5-mile radius to the NDB, excluding the airspace within the Portland-Troutdale, OR, Class D airspace area during the dates and times it is effective.

* * * * *

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

* * * * *

ANM OR E5 Portland, OR [Revised]

Portland International Airport, OR
(lat. 45°35′19″N., long. 122°35′51″W.)
Newburg VORTAC, OR
(lat. 45°21′12″N., long. 122°58′41″W.)
Corvallis VOR/DME, OR
(lat. 45°29′58″N., long. 123°17′37″W.)
McMinnville Municipal Airport, OR
(lat. 45°11′40″N., long. 123°08′09″W.)

That airspace extending upward from 700 feet above the surface within a line beginning at lat. 45°59′59″N, long. 123°30′04″W; to lat. 45°59′59″N, long. 122°07′50″W; thence via a 6.25-mile radius centered at lat. 45°54′50″N, long. 122°02′50″W; clock-wise to lat. 45°49′40″N, long. 121°58′00″W; thence via a line to lat. 45°46′30″N, long. 122°04′00″W; south along long. 122°04′00″W; bounded on the south by lat. 45°09′59″N, and on the west by long. 123°30′04″W, and within a 4.3-mile radius of the McMinnville Municipal Airport and within 2 miles each side of the Newburg VORTAC extending from lat. 45°09′59″N, to 19.8 miles southwest of the Newburg

VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 46°30'29"N, extending from 2.7 miles offshore to V–25, and on the east by V–25, on the south by V–536 to Corvallis VOR/DME, thence via lat. 44°29'59"N, to a point 2.7 miles offshore, and on the west by a line 2.7 miles offshore to the point of beginning.

* * * * *

Issued in Seattle, Washington, on April 18, 1994.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 94–10955 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AGL–1]

Establishment of Class E Airspace; Morris, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace near Morris, IL, to accommodate an amended Very High Frequency Omnidirectional Range Station-Airport (VOR–A) instrument approach procedure to Morris Municipal-James R. Washburn Field Airport, Morris, IL. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed for Instrument Flight Rules (IFR) operations during portions of the terminal operation and while transiting between the enroute and terminal environments. The area will be depicted on aeronautical charts to enable pilots to circumnavigate the area in order to comply with applicable Visual Flight Rules (VFR) requirements.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Robert J. Woodford, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, February 8, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace near Morris, IL, (59 FR 5740). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace near Morris, IL, to accommodate an amended VOR–A instrument approach procedure to Morris Municipal-James R. Washburn Field Airport, Morris, IL. Controlled airspace extending upward from 700 to 1200 feet AGL is needed for IFR operations during portions of the terminal operation and while transiting between the enroute and terminal environments. The area will be depicted on aeronautical charts to enable pilots to circumnavigate the area in order to comply with applicable VFR requirements.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL IL E5 Morris, IL [New]

Morris Municipal-James R. Washburn Field Airport, IL

(lat. 41°25'32"N., long. 88°25'07"W.)

That airspace extending upward from 700 feet above the surface within a 6.7 mile radius of the Morris Municipal-James R. Washburn Field Airport, excluding that airspace which overlies the Chicago, IL, Class E airspace.

* * * * *

Issued in Des Plaines, Illinois on April 20, 1994.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–10954 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–41]

Establishment of Class E Airspace; Longmont, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Class E airspace at the Vance Brand Airport, Longmont, CO. Establishment of a new instrument approach procedure requires additional controlled airspace for the procedure. Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the term "transition area," replacing it with the designating "Class E airspace." The Class E airspace will be depicted on aeronautical charts for pilot reference when the new approach procedures become effective.

EFFECTIVE DATE: 0901 UTC, June 23 1994.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 93–ANM–41, 1601 Lind Avenue SW., Renton, Washington 98055–4056; Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On February 18, 1994, the FAA proposed to amend part 71 of the

Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace for the Vance Brand Airport, Longmont, Colorado (59 FR 8149). Interested parties were invited to participate in the rulemaking process by submitting such written data, views, or arguments as they desired. No comments were received.

Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the term "transition area," and airspace extending upward from 700 feet above ground level is now designated Class E airspace. Class E airspace designations for airspace extending upward from 700 feet above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order. The coordinates in this final rule are in North American Datum 93.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Longmont, Colorado. It will provide controlled airspace for a new instrument approach procedure at the Vance Brand Airport. Establishment of the Class E airspace will result in greater safety and efficiency at, and in the vicinity of, the airport. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM CO E5 Longmont, CO [New]
Vance Brand Airport, CO
(lat. 40°09'51"N, long. 105°09'41"W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Vance Brand Airport, excluding the Fort Collins and Denver International Airport, Colorado, Class E airspace.

* * * * *

Issued in Seattle, Washington, on April 18, 1994.

Temple H. Johnson, Jr.,
Manager, Air Traffic Division.

[FR Doc. 94–10953 Filed 5–5–94; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AAL–05]

Modification of Class D Airspace and Establishment of Class E Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action modifies the Class D airspace areas at Adak, Anchorage Merrill Field, Bethel, Juneau, Kenai, King Salmon, and Kodiak, AK, by amending the areas' effective hours to coincide with the associated control tower's hours of operation. This action also establishes Class E airspace at these areas when the associated control tower is closed. The intended effect of this action is to clarify when two-way radio communication with these air traffic control towers is required and to provide adequate Class E airspace for instrument approach procedures when these control towers are closed.

DATES: Effective date—0901 U.T.C., June 23, 1994. Comment date: Comments must be received on or before June 23, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AAL–530, Docket No. 94–AAL–05, Federal Aviation Administration, 222 West 7th Ave. Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address listed above.

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

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. If the FAA receives no adverse comments in response to this action, this rule will become effective on the date specified in the "DATES" section. After the review, if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the rule which might suggest the need to modify the rule.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class D airspace areas at Adak, Anchorage Merrill Field, Bethel, Juneau, Kenai, King Salmon, and Kodiak, AK, by amending the areas' effective hours to coincide with the associated control tower's hours of operation. This action also establishes Class E airspace at these areas when the associated control tower is closed. Prior to Airspace Reclassification, an airport traffic area (ATA) and a control zone (CZ) existed at these airports. However, Airspace Reclassification, effective

September 16, 1993, discontinued the use of the term "airport traffic area" and "control zone," replacing them with the designation "Class D airspace." The former CZ was continuous, while the former ATA was contingent upon the operation of the air traffic control tower. The consolidation of the ATA and CZ into a single Class D airspace designation makes it necessary to modify the effective hours of the Class D airspace to coincide with the control tower's hours of operation. The action also establishes Class E airspace during the hours the control tower is closed. The intended effect of this action is to clarify when two-way radio communication with these air traffic control towers is required and to provide adequate Class E airspace for instrument approach procedures when these control towers are closed.

The coordinates for this airspace docket are based on North American Datum 83. Class D and E airspace designations are published in Paragraphs 5000 and 6002, respectively, of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D and E airspace designations listed in this document will be published subsequently in the Order. Under the circumstances presented, the FAA concludes that there is an immediate need to modify these Class D and establish these Class E airspace areas in order to promote the safe and efficient handling of air traffic in these areas. Therefore, I find that notice and public procedures under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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 5000—General

* * * * *

AAL AK D Adak, AK [Revised]
Adak NAS Airport, AK
(lat. 51°52′53″N, long. 176°38′50″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of the Adak NAS Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK D Anchorage Merrill Field, AK [Revised]
Anchorage Merrill Field, AK
(lat. 61°12′52″N, long. 149°50′46″W)
Elmendorf Localizer
(lat. 61°15′14″N, long. 149°46′48″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at the mouth of Fish Creek, thence along Fish Creek to Northern Lights Boulevard, thence direct to the intersection of Tudor Road and the New Seward Highway, thence east along Tudor Road to its intersection with Muldoon Road, thence north along Muldoon Road to the Glenn Highway, thence direct to the mouth of Ship Creek, thence southwest along the southeast shore of Knik Arm to a line 2 miles south of and parallel to the Elmendorf localizer southwest course, thence west along that line to a line direct from Point McKenzie to the mouth of Fish Creek; thence southeast along that line to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK D Bethel, AK [Revised]
Bethel Airport, AK
(lat. 60°46′47″N, long. 161°50′17″W)
Bethel VORTAC
(lat. 60°47′05″N, long. 161°49′27″W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of the Bethel Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK D Juneau, AK [Revised]
Juneau International Airport, AK
(lat. 58°21′18″N, long. 134°34′34″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3-mile radius of the Juneau International Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK D Kenai, AK [Revised]
Kenai Municipal Airport, AK
(lat. 60°34′17″N, long. 151°14′52″W)
Kenai VOR/DME
(lat. 60°36′53″N, long. 151°11′43″W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.2-mile radius of the Kenai Municipal Airport; excluding the airspace below 1,100 feet MSL beyond 4 miles from Kenai Municipal Airport extending from the 312° bearing clockwise to the 348° bearing from the Kenai Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK D King Salmon, AK [Revised]
King Salmon Airport, AK
(lat. 58°40′36″N, long. 156°38′58″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.2-mile radius of the King Salmon Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK D Kodiak, AK [Revised]
Kodiak Airport, AK
(lat. 57°45′00″N, long. 152°29′38″W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 3.1-mile radius of the Kodiak Airport, excluding that airspace west of a line 1.8 miles west of and parallel to the Kodiak Airport Runway 18–36. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6002—Class E airspace areas designated as a surface area for an airport

* * * * *

AAL AK E2 Adak, AK [New]
Adak NAS Airport, AK
(lat. 51°52′53″N, long. 176°38′50″W)

That airspace extending upward from the surface to and including 2,500 feet MSL

within a 4.5-mile radius of the Adak NAS Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK E2 Anchorage Merrill Field, AK [New]

Anchorage Merrill Field, AK
(lat. 61°12'52"N, long. 149°50'46"W)
Elmendorf Localizer
(lat. 61°15'14"N, long. 149°46'48"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a line beginning at the mouth of Fish Creek, thence along Fish Creek to Northern Lights Boulevard, thence direct to the intersection of Tudor Road and the New Seward Highway, thence east along Tudor Road to its intersection with Muldoon Road, thence north along Muldoon Road to the Glenn Highway, thence direct to the mouth of Ship Creek, thence southwest along the southeast shore of Knik Arm to a line 2 miles south of and parallel to the Elmendorf localizer southwest course, thence west along that line to a line direct from Point McKenzie to the mouth of Fish Creek; thence southeast along that line to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK E2 Bethel, AK [New]

Bethel Airport, AK
(lat. 60°46'47"N, long. 161°50'17"W)
Bethel VORTAC
(lat. 60°47'05"N, long. 161°49'27"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of the Bethel Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK E2 Juneau, AK [New]

Juneau International Airport, AK
(lat. 58°21'18"N, long. 134°34'34"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3-mile radius of the Juneau International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK E2 Kenai, AK [New]

Kenai Municipal Airport, AK
(lat. 60°34'17"N, long. 151°14'52"W)
Kenai VOR/DME
(lat. 60°36'53"N, long. 151°11'43"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.2-mile radius of the Kenai Municipal Airport; excluding the airspace below 1,100 feet MSL beyond 4 miles from the Kenai Municipal Airport extending from the 312° bearing clockwise to the 348° bearing from the Kenai Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AAL AK E2 King Salmon, AK [New]

King Salmon Airport, AK
(lat. 58°40'36"N, long. 156°38'58"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.2-mile radius of the King Salmon Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK E2 Kodiak, AK [New]

Kodiak Airport, AK
(lat. 57°45'00"N, long. 152°29'38"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 3.1-mile radius of the Kodiak Airport, excluding that airspace west of a line 1.8 miles west of and parallel to the Kodiak Airport Runway 18–36. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Issued in Anchorage, AK, on April 26, 1994.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 94–10952 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AA26

Rule Concerning Disclosures of Energy Consumption and Water Use Information About Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act; Range of Comparability for Clothes Washers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for clothes washers will remain in effect until new ranges are published. Under the Appliance Labeling Rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15% or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range will be applicable until new ranges are published. The Commission is today announcing that the ranges published on April 16, 1991, will remain in effect until new ranges are published.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to section 324 of the Energy Policy an Conservation Act of 1975,[2] covering certain appliance categories, including clothes washers. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all clothes washers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a clothes washer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, under § 305.10 of the rule, the Commission publishes new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15% Otherwise, the Commission

[1] 44 FR 66466, 16 CFR Part 305.

[2] Pub. L. 94–163, 89 Stat. 871, 42 U.S.C. 6294 *et seq.*

[3] Reports for clothes washers are due by March 1.

publishes a statement that the prior range or ranges remain in effect for the next year.

The annual reports for clothes washers have been received and analyzed and it has been determined to retain the ranges that were published on April 16, 1991.[4] In consideration of the foregoing, the present ranges for clothes washers, which were based on a national average electric rate of 8.24 cents per kilowatt hour and a national average natural gas rate of 60.54 cents per therm, will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–10936 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[4] 56 FR 15274.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM93–4–001]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued: May 2, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order on rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order on rehearing of its final rule that adopted regulations to standardize the content of, and procedures for accessing, information relevant to the availability of service on interstate pipelines. The Commission is granting rehearing on one issue: the requirement to provide file downloads in an ASCII flat file format.

DATES: The implementation date for the regulations published on January 5, 1994 (59 FR 516) is June 1, 1994, except when specified otherwise.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2294.

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–1283.

Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, (202) 208–0666.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street NE., Washington DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street NE., Washington DC 20426.

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Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

Standards for electronic bulletin boards required under part 284 of the Commission's Regulations, Docket No. RM93–4–001.

Order No. 563–A

Order on Rehearing

Issued May 2, 1994.

I. Introduction

In Order No. 563,[1] the Commission adopted a final rule requiring the standardization of information relating to transportation of natural gas across the interstate pipeline grid. The standards adopted by the Commission reflected the consensus agreements reached by the natural gas industry through a series of informal conferences established by the Commission. Under these standards, pipelines will have to provide access to the required information both on their Electronic Bulletin Boards (EBBS) and through files which users can download from the pipelines' computers to their own computers. Pipelines are required to implement the requirements of this rule by June 1, 1994, except for the requirements regarding a common code for gas transaction points which are to be implemented by November 1, 1994.

Nineteen parties have sought rehearing or clarification regarding some of the requirements of the rule and the standards and communication protocols.[2] The Commission grants rehearing on one issue, downloads in a standardized ASCII flat file format. The

[1] Standards For Electronic Bulletin Boards Required Under Part 284 Of The Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Δεψ. 23, 1993).

[2] The parties seeking rehearing and clarification are listed in Appendix A.

Commission had required pipelines to provide for file downloads in two formats: The first complied with established communication standards and protocols for Electronic Data Interchange (EDI) and the second would have required that downloads be made available in a standardized ASCII flat file specified by the Commission. The Commission agrees with those seeking rehearing that the future of communications in the industry will be enhanced by the development of one industry standard based on established communication standards and protocols, rather than by promulgation of a second non-standardized methodology that has significant disadvantages compared with EDI. The Commission also clarifies the requirements of the rule and the protocols as discussed below.

II. Background and Summary of Order No. 563

In Order No. 636,[3] the Commission required pipelines to establish EBBs to provide shippers with equal and timely access to relevant information about the availability of service on their systems, including service available through capacity release transactions and firm and interruptible capacity available directly from the pipeline.[4] The Commission recognized that the efficiency of capacity allocation would be enhanced by standardizing both the content of capacity release information and the methods by which shippers could access that information.[5]

To facilitate the development of industry standards, the Commission established informal conferences between the staff and all interested members of the gas industry. The participants at these conferences divided their efforts into five Working Groups.[6] The Working Groups submitted a series of reports to the Commission summarizing their deliberations and the agreements reached. The Commission noticed these reports and provided an opportunity for public comment.

The final rule adopted the consensus agreements reached by the industry in the Working Groups, with only slight modifications. Sections 284.8(b)(5) and 284.9(b)(4) require pipelines to provide standardized information relating to firm and interruptible service on their EBBs and to provide users with the ability to download the standardized information in compliance with standardized procedures and protocols. The rule provides that the details of the required information, procedures, and protocols will be made available in a document entitled "Standardized Data Sets and Communication Protocols," which will be available at the Commission's Public Reference and Files Maintenance Branch.

The standardized data sets specify the information concerning capacity availability that pipelines must provide both on their on-line EBBs and through downloadable files.[7] This information includes offers to sell firm capacity (either by the pipeline or releasing shippers), bids for capacity, awards of capacity, withdrawals of capacity offers and bids, operationally available (*i.e.*, interruptible) and unsubscribed firm capacity, and system-wide notices. In addition, the Commission established a mechanism for creating a common code data base for identifying pipeline transaction points, such as receipt and delivery points.

The communication protocols establish principles and procedures relating to the operation of pipeline EBBs and the provision of downloadable files to users. The most important of these protocols is the requirement that the pipelines provide downloadable files that conform to the standards for Electronic Data Interchange (EDI) promulgated by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12.[8] In addition to EDI, the Commission had required the pipelines to provide for file downloads in a standardized ASCII flat file format,[9] but the Commission is deleting this requirement on rehearing.

In the rule, the Commission recognized that as pipelines began the process of implementing the data sets, they could discover problems requiring modifications. The Commission stated that pipelines should communicate any problems to the Working Groups, which should make the necessary modifications to the data set and submit them to the Commission in sufficient time to permit implementation of the requirements by June 1, 1994.

On March 4, 1994, Working Groups 1 & 2 filed revised capacity release data sets and an implementation guide for downloading these data sets using EDI. Public notice was given of the filing with an opportunity for comments. By order dated April 1, 1994, the Commission accepted the revised data sets and implementation guide.[10]

The initial Working Group reports included a number of issues on which the Working Groups had not yet reached agreement. In the Notice of Proposed Rulemaking (NOPR), the Commission concluded that the Working Groups should take more time to consider these issues and try to reach consensus. The Commission provided that the Working Groups submit reports on these matters to the Commission by February 1, 1994. In Order No. 563, the Commission found that resolution of these issues should await the February 1, 1994 reports. Nevertheless, many of the requests for rehearing and clarification address the same issues.

The Commission has received a number of reports from the Working Groups, which were publicly noticed with an opportunity for comments.[11]

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[3] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 57 FR 13267 (Apr. 16, 1992), III FERC Stats. & Regs. Preambles ¶ 30,939 (Apr. 8, 1992), *order on reh'g*, Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), III FERC Stats. & Regs. Preambles ¶ 30,950 (Aug. 3, 1992), *order on reh'g*, Order No. 636–B, 57 FR 57911 (Dec. 8, 1992), 61 FERC ¶ 61,272 (1992).

[4] 18 CFR 284.8(b)(3)(4), 284.9(3)(4).

[5] Order No. 636–A, III FERC Stats. & Regs. Preambles at 30,549.

[6] Working Groups 1 and 2 were responsible for developing data sets setting forth the information concerning available capacity. Working Group 3 was responsible for developing standards relating to business transactions between pipelines and their customers unrelated to the sale or release of capacity. Working Group 4 was responsible for developing a set of communication protocols governing the dissemination of the information. Working Group 5 was responsible for developing codes to identify companies and common transaction points.

[7] On-line EBB refers to a continuous computer connection between a pipeline EBB and a user's computer in which the information from the pipeline's computer is displayed visually on the user's computer and the user can enter data directly to the pipeline's computer. File downloading refers to the transfer, in computerized format, of a file from the pipeline's computer to the user's computer. The user then can use other computer programs to manipulate the data off-line when it is not connected to the pipeline's computer.

[8] ASC X12 standards provide an electronic data submission capability that allows computers to exchange information over communication lines using standardized formats. Since the ASC X12 transaction sets provide generic data groups applicable to a range of potential applications, the transaction sets must be customized to individual applications by correlating or "mapping" the specific information to an ASC X12 transaction set through an implementation guide.

[9] ASCII refers to the American Standard Code for Information Interchange, a code for character representation. ASC X12 downloads also use ASCII characters. The term ASCII flat file download refers to a standardized file download capability that does not meet the requirements of the ASC X12 standards.

[10] 59 FR 16537 (Apr. 7, 1994), 67 FERC ¶ 61,006 (1994).

[11] Working Groups 1 & 2 could not reach consensus on several issues, and submitted reports from participants on the following issues: proposals for electronic index of purchasers which would provide information about the capacity rights of firm shippers, position papers on whether to require disclosure of aggregate firm and interruptible nominations at pipeline points, and position papers on the methods for recovering

Continued

When appropriate, the Commission will address these issues in this order to provide the Working Groups with guidance as to how to proceed.

The Commission will address the issues raised by the rehearing requests in the following areas: data set implementation and maintenance; specific information included, or proposed to be included, in the data sets (operationally available capacity, unsubscribed firm capacity, and firm and interruptible flowing volume); electronic communication issues (ASCII flat file downloads, file uploads, and subset downloads); common codes for companies and gas transaction points; additional standards for an Index of Purchasers and non-capacity business transactions; and proposals relating to the method for recovering the costs for implementing standards.

III. Issues Relating to Data Set Implementation And Maintenance

A. Implementation Date

AER/MRT contend that the June 1, 1994 implementation date places too great a burden on the pipelines, because they are still in the midst of refining their restructured services and the compliance burden falls during the critical shoulder months between January and March. They suggest a December 1, 1994 date. In particular, they contend that they require the implementation guide for the ASC X12 data sets by February 1, 1994, and suggest that, if that date is not met, the June 1, 1994 date should be relaxed.

The Commission will not change the implementation date. In Order No. 563, the Commission agreed to extend the implementation date from the April 1, 1994 date proposed in the NOPR until June 1, 1994. But, with this extension, the Commission expected a fully operational set of standards to be in place by June 1. Working Groups 1 and 2 stated in their comments that the June 1 date can be met if the ASC X12 implementation guide is available by March 1, 1994, and the Working Groups substantially met this deadline, filing the data sets and implementation guide with the Commission on March 4, 1994, with public notice given on March 7, 1994. AER/MRT is the only party alleging that the June 1 date cannot be met, and they have not provided sufficient justification for extending the date further.

B. Periodic Reports

In Order No. 563, the Commission found no need for requiring pipelines to file tariffs specifying how they would comply with the rule or to file periodic reports of their implementation progress. UDC/AGD renew their request that pipelines be required to file periodic reports. Without such reports, they maintain no formal procedure would exist to provide information on implementation progress or problems. They further claim such reports would provide useful information about the development of the secondary market and the interplay between interruptible and released capacity.

The Commission denies the request for rehearing. As stated in Order No. 563, the Commission will monitor implementation of the rule by accessing the pipelines' EBBs, continuing to hold industry conferences, and by examining complaints. These mechanisms provide a far more flexible method of oversight than attempting to specify particular items of information for inclusion in periodic reports. As stated earlier, the Commission is committed to monitoring the EBBs and the implementation of the standards, and to making revisions when needed.

C. Mechanism for Making Revisions to the Data Sets

In Order No. 563, the Commission recognized that the standardization process was an ongoing one, which would require revisions and modifications to the data sets and protocols as the industry obtains experience with operations under the standards. The Commission stated it would continue the informal conferences and the Working Groups as the best means for monitoring the standards, but did not adopt a specific mechanism for implementing proposed changes. The Commission found that its determination of the proper method for making revisions may depend on the type of change contemplated. The Commission stated, however, that in considering proposed changes, it would comply with the Administrative Procedure Act (APA) and ensure parties have notice and an opportunity to comment on proposed changes.

Tenneco Gas asserts that providing a mechanism for addressing changes to the standards is critical and requests the Commission to adopt a specific mechanism for making changes, which is both flexible and responsive. KGPC contends many participants are unable to commit the resources to remain actively involved in the Working Group process and urges the Commission to ensure adequate communication to the industry of proposed changes with an opportunity for comment. AER/MRT similarly request clarification that the Commission will comply with the APA and provide notice and an opportunity for comment.

The Commission recognizes that the standards and protocols will have to be revised and that a flexible mechanism is needed for effectuating such changes. To provide the needed flexibility, the Commission adopted only a general regulation referencing the separate standards and protocols and did not include those standards and protocols in the Code of Federal Regulations. However, as explained in Order No. 563, the Commission cannot commit to one method for making revisions because different circumstances may demand different procedural mechanisms; for example, maintenance of the existing data sets may be treated differently than implementation of new requirements. As stated in Order No. 563, in making changes, the Commission will adhere to the APA and provide notice and an opportunity for public comment before implementing changes.

The Commission will clarify that the process for maintenance of the data sets promulgated in the rule will be generally the same as the process used previously to adopt the revised data sets and implementation guide. The Working Groups will file their suggested changes, which will be noticed with an opportunity provided for comment. To facilitate discussion or improve understanding of proposed changes, Commission staff may convene a technical conference to review the changes with the industry. The Commission will then issue an order adopting the data sets. This process will enable the Commission to make changes in a timely fashion while still preserving the industry's ability to comment on the changes. The Commission also encourages the Working Groups to consider other methods of informing non-participants of impending changes prior to filing with the Commission so that the Working Groups themselves will be able to avail themselves of a broad spectrum of input.

While the Commission recognizes the need to revise the data sets, it also recognizes that making revisions and changes on a piecemeal basis may be cumbersome and create added programming costs for both the pipelines and those obtaining

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electronic communication costs. Working Group 5 submitted reports on a consensus agreement for implementing a common code for company names. Working Group 4 submitted a final report on communication protocols and operational logistics. Working Group 3 submitted a report containing a proposal for implementing standards for nominations and confirmations and a schedule for developing standards for other business transactions. Several participants also submitted position papers on the issue of ASCII flat file downloads.

information either from the EBBs or through downloadable files. The Commission encourages the Working Groups to consider an appropriate schedule for accumulating and submitting revisions.

Tenneco Gas states it did not understand that the Working Groups would continue indefinitely. AER/MRT contend that the Working Groups provide only a temporary solution and urge the Commission to recognize the contemplated Gas Industry Standards Board (GISB) as the appropriate group to handle standards development. Although GISB is still in its formative stage, AER/MRT recommend the Commission endorse GISB and charge it with the mission of further standards development. Columbia Distribution suggests that one Working Group would be more efficient than the current five, because the participants in the five Working Groups are essentially the same and one Working Group would streamline the process.

The Commission finds that some mechanism for consideration and modification of the standards, whether GISB or the Working Groups, must continue into the future. At this point, reliance on the GISB concept is premature, and the Commission will continue the Working Group process which has worked very well in developing standards. As stated in Order No. 563, the Commission will consider the GISB concept when a final proposal has been developed and the Commission can consider its impact on all facets of the gas industry. Meanwhile, the Working Groups should not delay or defer development of standards in anticipation of the implementation of GISB. The Commission will leave the structure of the Working Groups to be resolved by the industry at the informal conferences.[12]

D. Operation of the Data Sets

1. Mandatory, Optional, and Conditional Nature of the Fields

In the consensus data sets adopted by Order No. 563, data fields were denominated as mandatory, optional, and conditional.[13] The Commission found that the rule required all pipelines to support the mandatory data fields. Pipelines would choose whether to support the optional fields, unless they were required to support these fields by their tariff. The Commission also stated that pipelines were required to display all information, whether mandatory or optional, on their on-line EBBs.

AER/MRT seek clarification that the Commission was standardizing only the information to be provided on the on-line EBBs, not the format in which the information is to be displayed. Others seek clarification about the display of all the mandatory data fields on the on-line EBBs.[14] They contend certain mandatory fields in the downloadable data sets are required only for file transfers, but not for interactive, on-line transactions. They assert users of on-line EBBs will know some of the information in the mandatory fields without having it displayed, so that required posting of the information is unnecessary and will only clutter the EBB screens.[15] They maintain that the only requirement should be that the on-line EBB contain information comparable to the data sets.

KGPC, PEC Pipeline Group, and AER/MRT also request clarification that pipelines are not required to display optional information on their on-line EBBs unless they choose to do so or their tariffs require the display of that information. NGC requests clarification that pipelines must support the conditional fields.

The Commission will clarify its requirements. The Commission required all pipelines to support the mandatory fields because Order No. 563 included certain substantive requirements that pipelines may not previously have been required by their restructuring orders to disclose on their EBBs. For example, not all pipelines may be providing the information found in the operationally available capacity and critical notice data sets on their EBBs. The intent of the requirement was only to ensure that the downloadable data sets and the on-line EBBs conveyed comparable information. Accordingly, the Commission agrees that fields not required for on-line EBB use need not be displayed, so long as the on-line EBB and the downloadable data set convey comparable information.

Display of optional fields on the on-line EBB must take place when such fields are included in the downloadable data sets (unless, as stated above, they are not necessary for on-line use). Conditional fields must be supported by the pipelines when the conditional field is dependent on information in a mandatory field.[16] If the conditional field is predicated on the response to an optional field, the conditional field will have to be supported only if the pipeline supports the optional field.

2. Pipeline Modification of the Data Sets

In Order No. 563, the Commission stated that pipelines could not add fields to, or delete fields from, the data sets, finding that standardization required that all pipelines use the same structure for downloading. ASC X12 software is keyed to specific fields on the implementation guide, and the Commission was concerned that if pipelines could add or delete fields, shippers' software could not interpret the information. The Commission pointed out that the data sets were designed flexibly to accommodate special release offers or unique circumstances by including fields for special terms and miscellaneous notes.

KGPC contends EDI permits the addition of fields without inhibiting communication with parties not using the additional fields. It asserts the Commission should not unnecessarily inhibit the ability of the pipelines to customize their EDI transactions with trading partners.

Although KGPC is correct that fields can be added to the ASC X12 data sets without affecting the ability of others to use the original version, the Commission is concerned that if pipelines routinely add fields, the result would be a plethora of non-standard data bases, and users of multiple pipeline data bases could have difficulty accessing information that others could obtain.[17] The Commission, therefore, will not permit pipelines to add additional fields.

Working Groups 1 & 2 are concerned about situations in which the circumstances facing a particular pipeline do not fit the standardized format. They cite, as an example, a mandatory data field denominated a

[12] At an informal conference held on April 12, 1994, the participants did decide to consolidate into one Working Group. *See* Notice of Consolidation of Electronic Bulletin Board Working Groups, issued April 19, 1994. The Commission expects the combined Working Group to adhere to the schedules set forth in the rehearing requests and other filings submitted by the individual Working Groups.

[13] Conditional fields are filled only when a condition in another field is met.

[14] KGPC, PEC Pipeline Group, Tenneco Gas, Working Groups 1 & 2.

[15] Working Groups 1 & 2 point to the fields for rate schedule, stand-alone offer indicator (whether the offer is tied to another offer), and offer type (indicating the type of capacity being offered) as examples of information that would be implicitly known to users of on-line EBBs and so need not be included on the EBB display.

[16] For example, the prearranged deal field is a mandatory field requiring a yes/no response. Pipelines, therefore, must support all the fields conditioned on the response to the prearranged deal field.

[17] A simple example would be a standardized data set with 30 items. If pipeline 1 added data item 31 and pipeline 2 added data item 31 to provide different information, a user of both pipelines would be unable to use the 31st data item because its meaning would not be standardized.

yes/no (Y/N) field and a pipeline needing a third category (U) for unknown. They suggest the following working principle for dealing with these problems: the pipeline will make a good faith effort to comply with the data sets, but if it cannot, it must explain any discrepancies and seek a correction through the Working Group process.

The Commission is concerned about pipelines changing the meaning of data set items. While the addition of an unknown element for a field, as Working Group 1 & 2 suggest, would seem unlikely to cause major communication difficulties, the Commission cannot determine whether other changes in meaning might adversely affect those seeking to obtain information from multiple pipelines.[18] Thus, pipelines should make every effort to use the data sets as promulgated, for instance, using a "no" indicator or the miscellaneous note field even if these are not optimum solutions. When pipelines encounter difficulties in using the standardized data sets, they should inform the Working Groups so that revisions can be considered. Once changes are received from the Working Groups, the Commission is committed to reviewing them as quickly as possible, but the Working Group changes may not be implemented unilaterally without Commission approval.

IV. Issues Relating to Specific Information Included in the Data Sets

A. Operationally Available (Unscheduled) Capacity

The Commission adopted the Working Groups' consensus agreement to require the pipelines to provide information on the amount of unscheduled capacity available at specific locations, such as receipt and delivery points, mainline, or mainline segments. The Commission found that this information satisfied the pipelines' obligation to post the capacity available for interruptible service.[19]

1. Objection To Posting the Amount of Operationally Available Capacity

TGPL requests rehearing of the requirement to post the actual quantity of unscheduled capacity. It contends the posting of detailed information on unscheduled capacity will serve only to reduce the value of interruptible and firm service, because potential shippers can use the unscheduled capacity information to demand the lowest price for the capacity. It asserts the regulatory obligation to post interruptible capacity could be satisfied by the pipelines simply indicating that interruptible capacity is available.

The Commission denies TGPL's rehearing request. The Working Groups reached a consensus agreement to provide unscheduled capacity, and TGPL is the only party raising an objection. Moreover, a marker indicating that interruptible capacity is available is not sufficient to comport with the regulatory requirement to post available capacity. Under the Commission's open access regulations, pipelines cannot withhold available capacity, and shippers, therefore, have the right to know the amount of capacity available. Moreover, shippers need to know the amount of interruptible capacity available in order to make a reasonable determination of whether interruptible service is sufficient for their needs or whether they need to seek released firm service.

2. Derivation of the Estimates of Operationally Available Capacity

In Order No. 563, the Commission stated that the data for operationally available capacity could be estimates, and left to the Working Groups the issue of whether an additional field would be needed to describe how the estimates were derived. Working Groups 1 & 2 reached agreement that a new field was not needed. They suggest a good faith effort by each pipeline to provide a commercially reasonable estimate using internally consistent methods is sufficient. The Commission, therefore, will not require the additional field at this time.

B. Unsubscribed Firm Capacity

KGPC requests clarification that the Commission's reference in Order No. 563 to pipelines' posting their available firm capacity in the offer data set does not require any change in its current practices for posting its available firm capacity. KGPC states that, because it is a grid system with thousands of receipt and delivery points, it cannot post in the offer data set the myriad configurations of firm capacity paths that might be available.[20] Instead, it states that it posts on its EBB the capacity available at each point and the subscribed capacity at each point. Potential shippers then request possible combinations of capacity paths, and if KGPC determines firm capacity is available along these paths, the resulting firm service will be posted in the capacity offer section of the EBB.

The revised data sets submitted by Working Groups 1 & 2, and adopted by the Commission have accommodated KGPC's concern. The operationally available capacity data set includes fields permitting pipelines to post unsubscribed capacity available at receipt and delivery points, as KGPC states it does now. Once a potential shipper submits a request for a capacity path that is available, the pipeline would then post the offer for that path in the offer data set.

C. Information on Firm and Interruptible Flowing Volume

NGSA and NGC contend the Commission needs to require additional information to satisfy the pipelines' obligations to post available firm and interruptible service.[21] NGSA asserts the firm capacity available through capacity release is only a piece of the total picture of firm capacity needed by potential shippers. NGSA contends the Commission also should require pipelines to post the total amount of unscheduled (potentially available) firm capacity. NGC contends potential shippers cannot make reasonable pricing decisions unless they know flowing primary firm volumes, flowing secondary firm volumes, flowing interruptible volumes, and unscheduled volumes. KGPC, on the other hand, maintains that the Commission should not require the posting of any information in addition to the unscheduled capacity already required.

Working Groups 1 & 2 were unable to reach consensus on whether to require additional information about firm and interruptible volumes or nominations at each point. Their February 24, 1994 report contained papers from three groups on this issue. One group[22] supported the arguments of NGSA and NGC that detailed information about flowing firm and interruptible volumes is needed for shippers to make informed

[18] For example, those using multiple pipelines may have difficulty learning of such changes, and their computer software may not be able to effectively process data sets from multiple pipelines if the meanings of elements are different.

[19] 18 CFR 284.9(b)(3).

[20] The offer data sets would require the pipeline to define the points between which the capacity is being offered.

[21] 18 CFR 284.8(b)(3).

[22] Ad hoc Group of Power Generators, American Iron & Steel Institute, Amoco Production Company, Baltimore Gas & Electric, Chevron U.S.A. Production Company, Conoco, Inc., Destec Energy, Edison Electric Institute, Fuel Manager's Association, Gaslantic Corporation, GPM Gas Corporation, Marathon Oil Company, Natural Gas Clearinghouse, New England Power Company, O & R Energy Inc., Oryx Gas Marketing Company, Oryx Energy Company, Phillips Gas Marketing Company, Phillips Petroleum, Company, Process Gas Consumers, Texaco Gas Marketing, Inc., Vastar Gas Marketing, Inc., Virginia Power Company.

decisions about the capacity to purchase.

A second group[23] opposes providing any additional data. They contend the information is not readily available, the costs of providing it would be high, and the information is not related to capacity release. They also assert the information would tilt the capacity release market to favor capacity seekers at the expense of capacity holders. Whenever the information showed that significant interruptible volumes are scheduled to flow, they maintain the value of released firm capacity would be devalued. They further contend the now devalued released capacity will displace interruptible pipeline capacity, thereby reducing the interruptible revenue credits provided to firm shippers.

A third group[24] submitted a compromise seeking to balance the need for information about flowing volumes with the costs of providing that information. Under their proposal, the pipelines would provide a "flag" indicating that interruptible volumes are flowing at a point which would otherwise have no operationally available capacity. They assert that this flag would alert both buyers and sellers that firm capacity at the point is available and could be valuable: if interruptible volumes are flowing at a point that is operationally full, a purchaser of firm capacity could bump the interruptible shippers.[25] They assert the cost of providing this flag is less than the cost of providing the estimated quantities.

Public notice of these filings was given on March 3, 1994, and the PEC Pipeline Group submitted a comment supporting the interruptible flag proposal. It contends the flag provides a reliable indicator of the availability of firm capacity (by showing that interruptible gas is flowing), but at a fraction of the cost of the proposal to post flowing volumes.

[23] ANR Pipeline Company, Brooklyn Union Gas Company, Colorado Interstate Gas Company, Great Lakes Gas Transmission Limited Partnership, Koch Gateway, Natural Gas Pipeline Company, Transco Gas Pipeline, Williston Basin.

[24] Algonquin Gas Transmission, Consolidated Natural Gas, East Tennessee Natural Gas, Enron Corp., Kern River Gas Transmission, Midcon, Midwestern Gas Transmission, National Registry, Natural Gas Pipe Line, Panhandle Eastern Pipe Line, Producer-Marketer-Transportation Group, Southern California Edison, Southern California Gas, Tennessee Gas Pipeline, Texas Eastern Transmission, Trunkline Gas Company, Washington Gas, Williston Basin Interstate Pipeline.

[25] If the shipper sought to use interruptible transportation, it might not be able to receive service if the point was constrained. Its ability to receive service would depend on the pipeline's tariff mechanism for allocating interruptible capacity when requests exceed demand.

The Commission finds that the flag proposal identifying when interruptible capacity is flowing at constraint points provides a reasonable compromise between informing users that firm capacity may be available at certain locations and the costs of providing that information. With the addition of information on interruptible capacity provided by the "flag," shippers will have a sufficiently broad range of information about capacity availability. They will know the amount of capacity available at points (operationally available capacity), whether firm capacity is available at constraint points (interruptible flag), the firm capacity available through posted release transactions, and the unsubscribed firm capacity available from the pipeline. This information should be sufficient for shippers to make reasonable decisions about the transportation option to select. The Working Groups must include the interruptible flag in the next iteration of the data sets.

V. Electronic Data Interchange

A. ASCII Flat File Downloads

In addition to adopting the consensus agreement to require EBB operators to provide for electronic file downloading using EDI, the Commission also required pipelines to make the data sets available in a standardized ASCII flat file format in an effort to ease the transition to EDI for those not familiar with this technology. The Gas*Flow group, which was to develop the EDI implementation guide, also was to provide the ASCII flat file formats.

A number of parties seek rehearing or modification of the requirement to provide downloads in a standardized ASCII flat file format.[26] They contend the requirement for ASCII flat file downloads goes beyond the consensus agreement of Working Group 4, which left the provision of ASCII flat file downloads up to the pipeline. They assert that imposing a redundant download capability is costly and provides little benefit. Natural and INGAA contend the requirement is unjustified since only two comments on the NOPR requested ASCII flat file downloads and the Commission failed to make an effort to estimate the number of customers wanting to use ASCII flat files. Tenneco Gas maintains ASCII flat file downloads pose a risk to the receiver of information, because they do not contain the safeguards inherent in the ASC X12 process. AER/MRT assert the Commission should limit the requirement to provide ASCII flat file downloads to seven months, which will provide a sufficient transition period while reducing the burden on the pipeline to maintain two formats indefinitely. A number of parties also argue that Gas*Flow will not be supporting ASCII flat file standards because such an effort goes beyond its charter.[27]

Working Groups 1 & 2, PEC Pipeline Group, TGPL, and Tenneco Gas suggest that, if the ASCII flat file requirement is not eliminated, the Commission modify the requirement that the pipelines provide ASCII flat file downloads according to a standardized format. Instead, they recommend the pipelines be free to develop their own ASCII flat file format.[28] TGPL believes standardization is not needed because customers wanting to use ASCII flat files in place of ASC X12 are most likely to be small customers transacting business primarily, if not exclusively, on a single pipeline.

The Commission also has received filings from Working Group 3 and other parties arguing that while ASCII flat file downloads are easy to document and import into spreadsheet programs, communication using ASCII flat files has significant disadvantages when compared with ASC X12 communication.[29] The cited disadvantages of ASCII flat file downloads are: the ASCII flat file format itself is inefficient and inflexible, because it relies on sequential data display; ASCII flat files are less reliable because validation programs are available for ASC X12, but not for ASCII flat files; the lack of validation also makes using ASCII flat files more labor intensive and expensive; and ASCII flat files do not provide a foundation for further standardization in the industry as does ASC X12.

Although Enron Gas Services Corporation created an ASCII flat file format should the Commission wish to use it, neither Enron nor Gas*Flow supports the use of ASCII downloads. Enron further states that requiring pipelines to provide ASCII flat file downloads is not necessary even for users wanting to use a flat file format. It maintains that these users can obtain

[26] AER/MRT, INGAA, Natural, PEC Pipeline Group, Tenneco Gas, TGPL, Working Groups 1 & 2.

[27] Natural, TGPL, Tenneco Gas, Working Groups 1 & 2.

[28] Working Groups 1 & 2 assert each pipeline should be responsible for defining its ASCII flat file in either a fixed field or delimited form. It encourages the pipelines to use the same field names as in the Commission approved data sets and to apply the pipelines' format (fixed field or delimited) consistently across all customers.

[29] March 9, 1994, filing from Working Groups 1 & 2, and March 25, 1994 filing from Working Group 3.

commercially available software at low cost which will translate the ASC X12 information into an ASCII flat file format.

The Commission will grant rehearing and eliminate the requirement that pipelines provide an ASCII flat file download.[30] Working Group 4 reached consensus on using only EDI as the industry standard for file downloading.[31] Both Working Groups 1 & 2 and Working Group 3 oppose the ASCII flat file requirement as not being in the long term interest of the industry. Moreover in response to the NOPR's request for comment on this issue, only two commenters favored a requirement that pipelines provide a flat ASCII download.

On reconsideration, the Commission agrees with those requesting rehearing that the future of electronic communications in this industry will be better served by establishing one industry standard based on already established communication protocols, such as ASC X12 EDI, rather than by developing a second system which is not based on recognized communication standards and which would provide a less reliable method of communication. The provision of a transition period to EDI does not warrant the expense of establishing a standardized ASCII download capability. Users that are not currently EDI capable will still be able to use the EBBs to conduct capacity release transactions while they are learning EDI.[32] In addition, ASCII flat files may be designed in different configurations depending on the customer's use for that data. The Commission's specification of a particular format, therefore, would not necessarily have met customers' needs.

Moreover, the Commission's adoption of ASC X12 EDI standards for communication has created the foundation for software vendors to develop specific software or other services which will convert the standardized ASC X12 EDI data into the file structures needed by users, whether large or small. For example, in other industries, software vendors have developed low-cost desktop EDI translators for personal computers that convert from EDI to a flat ASCII file structure (a "canned" file structure) without the user having to understand EDI or learn how to program or operate the translator.[33] The Commission is confident that all customers will be able to acquire software or other services that meet their individual data communication needs at reasonable prices. Relying on the market to develop such services is preferable to the Commission mandating a second file download structure that may not even provide a good fit with customers' needs.

B. Uploading and Subset Downloading

In Order No. 563, the Commission stated that the ability of users to transmit (upload) capacity release files to the pipelines' computers and to download subsets of files would enhance communication efficiency for capacity release transactions. File upload capability would permit users to submit offers to release and bids without using the pipelines' EBBs, while subset downloads would permit users to obtain only the capacity release files they need.

KGPC contends the development of file uploads and subset downloads should be driven by market demand, so the pipeline has some assurance its customers want the service before being compelled to provide it. Tenneco Gas suggests the development of file uploads for capacity be delayed until after the upload capability being developed by the Working Groups for nominations and confirmations is underway. It contends most industry participants at the Commission's conference gave first priority to the development of upload capability for nominations and that upload capability for capacity release, particularly for bids, is more difficult to develop. It also states upload capability should be market driven, because the parties supplying the upload information are not pipelines. NGSA supports the development of file upload and subset download capability and suggests this task is within the purview of Working Group 1, not Working Group 4 (as stated by the Commission).

In their March 4, 1994, filing, Working Groups 1 & 2 provided data sets that would enable users to download subsets of capacity release information and these have been adopted by the Commission. Working Groups 1 & 2 have agreed to report by June 1, 1994 on capacity release uploading and ask the Commission not to prejudge the issue.

The Commission still is interested in the use of file uploads to facilitate capacity release by eliminating the need for shippers and bidders to go through the process of signing-on to EBBs to submit offers and bids. But the Commission will not require the Working Groups to go forward with this approach until Working Groups 1 & 2 have the opportunity to make their June 1, 1994 filing on this issue.

VI. Common Codes

A. Common Company Codes

In the NOPR, the Commission stated that it expected Working Group 5 to finalize its proposal for identifying companies by use of a common code by February 1, 1994. In its March 24, 1994 report, the Working Group stated it has reached consensus on a procedure for assigning company codes. The Working Group states that use of company names alone is unreliable because different abbreviations and aliases would render electronic posting ineffective. The Working Group, therefore, selected the D-U-N-S Number assigned to companies by the Dun & Bradstreet Corporation as the common code number. The Working Group states that Dun & Bradstreet will assign a D-U-N-S number free of charge to any company that can establish that it is a business entity located at a specific address and engaged in a legitimate business. Dun & Bradstreet also allows trading partners to exchange D-U-N-S numbers without charge and will provide the company name and address corresponding to a D-U-N-S number to any other party requesting the information for internal use.

The Working Group proposes that pipelines provide a means by which capacity release participants can provide common code numbers to be used in EDI transactions involving the capacity release data sets. The participants would be solely responsible for obtaining the common code numbers from Dun & Bradstreet and providing them to the pipeline. Those participants that do not have a D-U-N-S number would so inform the pipeline and only their company name would be included in the data sets. The Working Group asserts this process would be self-implementing by the participants and would not require any new institutional arrangements to implement.

The National Registry submitted comments stating that its understanding of the Working Group 5 agreement was that any company having one or more

[30] The provision of file downloads through EDI will be sufficient to satisfy the Commission's requirement for file downloads in Order No. 636. 18 CFR 284.8(b)(4)(i). Pipelines, however, are still free to provide an ASCII download to their customers.

[31] The Working Group left the issue of whether to provide ASCII flat file downloads up to each pipeline depending on its assessment of its customers' needs.

[32] Those pipelines that currently provide ASCII downloads in the pipeline's proprietary format must provide a grace period for their users if they do not intend to continue to support such downloads in the future.

[33] Other EDI translators permit customers to map the EDI data set to the customers' individual needs. While this feature provides greater versatility than a specified or canned translation, it does require understanding of EDI and the translator program.

D-U-N-S numbers would supply at least one valid D-U-N-S number to the pipeline. According to the National Registry, the only exception to the requirement is when a company does not have a D-U-N-S number. The National Registry further contends that D-U-N-S numbers should be included in any of the data sets when releaser or bidder company name information is supplied. Great Lakes Gas Transmission Limited Partnership (Great Lakes) supports the Working Group 5 proposal because parties can acquire D-U-N-S numbers at no charge and the use of D-U-N-S numbers is self-implementing by capacity release participants.

The Commission already has adopted the revised data sets submitted by Working Groups 1 & 2 which contain fields for display of D-U-N-S numbers. No further Commission action on this proposal seems required at this time. Those using the EBB should provide the pipelines with their D-U-N-S numbers (if they have them) and the pipelines will display those numbers on their EBBs and the downloadable data sets.

B. Common Transaction Point Codes

In Order No. 563, the Commission accepted the consensus approach proposed by Working Group 5 for identifying common pipeline transaction points. Under this approach, a third-party code assignor, the Petroleum Information Corporation (PI-GRID), will prepare a computerized cross-reference table correlating pipelines' proprietary codes (as verified and updated by the pipelines) to a common code. Those wanting to use the common code will maintain the cross-reference table on their computers and can convert proprietary pipeline codes to the common code, and *vice versa*. All transactions with the pipeline will take place using the pipelines' proprietary codes.

In the communication protocols, the Commission required the pipelines to provide the validated computerized data base by November 1, 1994. Pipelines were required to verify the required information about their transaction points to the code assignor. The Commission also required each pipeline to provide the code assignor with sufficient information to enable users to locate the position of each common code point on that pipeline in relation to other points, such as by using geographic coordinates, line numbers, or line markers. In line with the Working Group proposal, the Commission required the pipelines to ensure that users can obtain the common code data base from PI-GRID, and any updates, without charge, except for reasonable distribution and handling fees.

1. Pipeline Responsibility To Provide the Data Base and Ensure Reasonable Fees

Columbia Distribution contends the use of the common code translation table is an inefficient method of communicating common codes. Instead, it maintains the Commission should require the pipelines to adopt the common code.

Several parties object to the Commission's requirement that the pipelines be responsible for ensuring that a validated computerized base is available by November 1, 1994, and that the fees charged by PI-GRID are reasonable.[34] They contend the Commission's requirements are at odds with the Working Group 5 process in which an industry consortium would be negotiating and signing the contract with PI-GRID. TGPL argues that placing the compliance burden on the pipelines gives PI-GRID unreasonable leverage in negotiating its duties as code assignor. TGPL asserts the Commission should do nothing more than accept the Working Group 5 proposal and require the pipelines to validate their proprietary point information to PI-GRID. KGPC suggests that the Commission set up a process to monitor the provision of services by PI-GRID, rather than placing that burden on the pipelines. AER/MRT argues that instead of placing the burden on the pipelines to ensure a November 1, 1994 implementation date, the Commission should set a compliance date for PI-GRID and, if this deadline is not met, should give the pipelines additional time to comply with the common code requirements.

TGPL, Tenneco Gas, Natural, and KGPC contend that pipelines should not be responsible for ensuring the reasonableness of fees because they will not be signatories to the contract with PI-GRID and, therefore, can have only an indirect influence on the contracts. Natural further contends the requirement to ensure reasonable fees is unduly vague and establishes no basis for determining when such costs are reasonable. INGAA maintains the industry consortium approach of Working Group 5 provides a competitive market mechanism for controlling fees that is superior to imposing a requirement on only one segment of the industry. INGAA points out that the contract with PI-GRID requires that PI-GRID make the codes available at a cost covering only shipping and handling.

[34] KGPC, INGAA, Natural, Tenneco Gas, TGPL.

On the other hand, NGSA contends the Commission did not place sufficient requirements on the pipelines to ensure that the November 1, 1994 implementation date is met. It suggests the Commission require the pipelines to cooperate with the code assignor by designating, prior to a specified date, a pipeline liaison who will work with the code assignor to establish and validate the transaction points.

The Commission denies the request by Columbia Distribution to require the pipelines to adopt the common code. Such a requirement goes beyond the consensus reached by the Working Group. The translation table provides users with the benefits of common codes within a reasonable time frame, while, at the same time, pipelines need not incur the burden and expense of making an immediate conversion of their computer systems and operations to accommodate the common codes. However, as pipelines review and update their financial systems to accommodate the new business conditions created by Order No. 636, the Commission fully expects them to incorporate the use of common codes.

The Commission will clarify its position on pipeline responsibility. The Commission is accepting the code assignor approach put forward by the Working Group. While the Commission recognizes that other parties have been involved in developing the concept and will be signing the contract with PI-GRID, the pipelines are the only jurisdictional entity involved in the transaction. The pipelines can fulfill their obligation by either individually, or through their trade association INGAA, entering into the contract with PI-GRID as developed and presented by the Working Groups. The Commission understands that this contract will specify that the charges for obtaining the common code data base cannot exceed reasonable shipping and handling costs. The Commission, at this point, will leave the monitoring of these costs to the signatories to the contract.

The Commission has required the pipelines to confirm their proprietary point information to PI-GRID, and the Commission expects no problems in pipeline cooperation with PI-GRID. However, to facilitate PI-GRID's development of the common code data base, each pipeline must designate a liaison to work with PI-GRID and must cooperate with the schedule set up by PI-GRID so that the data base will be available by the November 1, 1994 date.

2. Point Locator Information

TGPL and INGAA seek rehearing of the Commission's requirement that

pipelines provide PI-GRID with information sufficient to locate pipeline points in relation to other points. They argue the two comments to the NOPR requesting such information do not provide a sufficient basis for the Commission to reject the consensus agreement of Working Group 5 under which pipelines would provide this information only if they have it readily available. They maintain Working Group 5 treated this information as optional to avoid imposing additional burdens on pipelines that do not maintain this information in electronic form, while providing useful data when the information is readily available and accessible.

The Commission denies the request to make point locator information optional. Shippers considering capacity release offers need information about point location to determine whether a particular offer fits their needs. Point locator information provides shippers with the ability to determine electronically whether the transportation path they desire is encapsuled within the transportation path of the posted release. For instance, without such information, the shipper cannot determine whether the delivery point it wants to use is upstream or downstream of the delivery point on the capacity release offer.

Nevertheless, the Commission recognizes that some pipelines may have a large number of receipt points and may not maintain the geographic location of these points in an easily accessible form. The Commission also considers the geographic location of delivery points to be more important to evaluating capacity release offers than receipt point information, because the potential bidder generally needs only to determine whether the path of the capacity release offer extends to its desired delivery point. To ease the burden on those pipelines without easily accessible information, the Commission will require that they confirm to PI-GRID the geographic location of their delivery points and most important receipt points in time to meet the November 1, 1994 deadline. Those pipelines would then be responsible for completing the confirmation process for all their receipt points as soon as possible, but no later than May 1, 1995. Pipelines desiring to take advantage of this exception should file a request for an extension of time, explaining their system for maintaining geographic information and justifying their inability to make full compliance by November 1, 1994. Such extensions will be granted only upon good cause shown.[35]

KGPC requests clarification that the Commission's reference to geographic coordinates referred to latitude and longitude. The Commission agrees. Natural states that its paper pooling and storage points used for nominations have no identifiable location on the pipeline and it presumes that for such points, it need only include an identifier showing the points have no geographical location. Pipelines should consult with PI-GRID to determine how to report points without identifiable geographic locations.

The National Registry states that most pipelines appear to be cooperating with the requirement to provide point locator information in a form that will enable users to locate points in relation to each other. It requests clarification that the Commission's complaint process is the appropriate means of dealing with possible situations in which pipelines do not provide the point locator information in usable form. The Commission does not anticipate that any problems will develop, but, if they do, an attempt should be made to resolve the problem through the Working Group, and, if that fails, the Commission's complaint procedure or enforcement hotline would be appropriate vehicles for pursuing a problem.

3. Establishment of New Receipt and Delivery Points

In the final rule, the Commission adopted the agreement reached by Working Group 5 that information concerning new receipt and delivery points, or modifications to existing points, must be provided to the code assignor 10 days before any business will be transacted using the new or modified point. Natural requests clarification that shippers may utilize a new receipt or delivery point prior to the expiration of the 10-day period. It contends situations arise in which a shipper has an immediate need for a new receipt or delivery point and a 10-day delay would pose an unnecessary hardship. It also argues pipelines sometimes need to add a point immediately, for example, to identify a second proprietary code for an existing point or create a paper point for accounting purposes. It suggests that no more than a one day delay in implementing points should be mandated.

[35] The Director of the Office of Pipeline Regulation can approve such requests pursuant to its delegated authority under section 375.307(d)(4) of the Commission's regulations.

The requirement for a delay in implementing points was intended to ensure that parties using the common code data base would not be at a disadvantage to those using the pipelines' proprietary points as listed on the EBB. Except in emergency situations, pipelines should give PI-GRID at least 10 days advance notice of new points or modifications to point information so that those using the common code data base will not be disadvantaged relative to those using the pipeline's EBB.

VII. Additional Standards

Parties had requested that the Commission require an electronic Index of Purchasers, which would disclose information about capacity rights, and require the development of standards for non-capacity release business transactions. The Working Groups were continuing their deliberations in these areas, and, in Order No. 563, the Commission stated that it would await the Working Group reports before making decisions on these issues. The Working Groups have submitted reports on these issues. Several rehearing petitions address these issues as do comments received on the Working Group reports, and the Commission will address these issues below.

A. Index Of Purchasers

The National Registry and Gaslantic support the so-called Tennessee compromise being developed by the Working Groups, but, in the event the compromise falls through, the National Registry requests the Commission to grant rehearing and require the pipelines to implement the limited Index the National Registry proposes. KGPC suggests that, if an electronic Index of Purchasers is required, the Commission should eliminate or modify its current regulations that require pipelines to file similar information with the Commission.

Working Groups 1 & 2 failed to reach consensus on an Index. One group, consisting of 44 participants drawn from a cross-section of the industry (Group 1),[36] support a compromise proposal

[36] Algonquin Gas Transmission, American Iron and Steel Institute, Amoco Production Company, Aquila Energy Marketing Corporation, Aquila Energy Resources Corporation, Bass Enterprises Production Co., BP Exploration Inc., BridgeGas U.S.A. Inc., Chevron, Conoco, East Tennessee Natural Gas, EnerSoft, Fuel Managers Association, Gaslantic Corporation, Georgia Industrial Users Group, Heath Petra Resources, Inc., Independent Oil & Gas Association of Pennsylvania, Independent Oil & Gas Association of West Virginia, KCS Energy Marketing, Inc., Kern River Gas Transmission, Marathon Oil, Midland Marketing Corporation, Midwestern Gas Transmission, Mobil, National Fuel Gas, National Registry of Capacity Rights,

under which the Commission would eliminate the paper reporting requirements relating to firm and interruptible transportation, including the initial and subsequent reports (but not the annual reports or the reports on bypasses) and the requirement to include an Index of Purchasers in a pipeline's tariff. These reports would be replaced by an electronic Index provided in downloadable form consisting of the following nine data elements for each firm transportation and storage shipper: shipper's name, contract identifier, rate schedule, contract start date, contract end date, contract quantity, receipt points (and associated maximum daily quantities (MDQs)), delivery points (and associated MDQs), and conjunctive restrictions, if any.[37] The information would be updated whenever a new contract for firm capacity was written or a pipeline filed a section 4(e) rate case.

A smaller number of participants (11) (Group 2)[38] support a more limited Index which essentially excludes the receipt and delivery point information contained in the first group's proposal. The parties supporting this proposal state that they do not believe any Index is truly necessary, but that, in the spirit of compromise, their proposal would provide a reasonably cost effective Index.[39] They are concerned that disclosing specific receipt and delivery points potentially could place firm shippers at a disadvantage with respect to future gas purchase options.

The Arkla Companies[40] oppose any Index. They assert the justification given for the Index (that it is needed so capacity buyers can locate available capacity) is unsupported. They argue that this function is satisfied by the firm shipper's incentive to release capacity and potential buyers' ability to place "want ads" advertising their interest in acquiring capacity. If firm shippers, not already posting firm capacity, fail to respond to a "want ad," the Arkla Companies maintain the capacity holder is unlikely to be interested in releasing capacity. Further, they assert that small users (who are alleged to be at an information disadvantage to large users) would not likely be sophisticated enough to manipulate the data on the thousands of contracts electronically available through the Index. If the Commission does require an Index, they maintain the Commission should eliminate its Part 284 reporting requirements and permit the pipelines to charge a fee for the use of the Index.

Public notice of these filings was given on March 3, 1994, and the National Registry and PEC Pipeline Group filed comments supporting Group 1's proposal containing the nine data elements. The National Registry contends the information on receipt and delivery point MDQs is needed so the market can be aware of receipt and delivery point capacity that can be acquired through capacity release. It points out that many pipelines allocate greater firm receipt and delivery point capacity than they do mainline capacity and shippers may want to acquire the receipt or delivery point capacity independently of mainline capacity.[41] In response to those opposing disclosure of receipt and delivery point information, the National Registry contends that capacity information should not be considered proprietary. It also argues that disclosure of receipt points is unlikely to reveal a purchaser's gas purchase strategy, since it does not disclose pricing, duration, or delivery conditions and, in most cases, even the supplier could not be divined from the information.

The PEC Pipeline Group supports the Group 1 proposal because this option actually will reduce costs by eliminating the duplicate reporting requirements for firm transportation contracts. It points out that the information required by the Index is essentially the same as is now required to be filed in the initial and subsequent reports under Part 284, so no additional costs for gathering the information are created by the proposal.

The Commission finds that the Group 1, more inclusive, proposal has significant merit, and the Commission is very interested in pursuing this proposal further. The proposal provides useful information to the market about capacity, while also setting the stage for reducing filing burdens on pipelines and streamlining the Commission's reporting requirements. The Group 2, more limited, proposal is not as attractive because, without receipt and delivery point information, it would not reduce filing burdens. Moreover, information on receipt and delivery points would be of value to those seeking releasable capacity and disclosure of such capacity information is not confidential, since it presently is disclosed publicly through the initial and subsequent reports.

The Commission, however, is unsure about some details of the proposal. For example, as framed, it would eliminate the initial and subsequent reports for firm and interruptible transportation, but would provide only information about firm transportation in the electronic Index. The proposed Index would be updated only when a new contract was written or upon the filing of a section 4 rate case, whereas the subsequent reports now must be filed whenever a material change in the contract occurs. The proposal states that the Index would be available in downloadable form, but does not specify the format for the download (EDI or another format) nor whether shippers will have access to the information in other forms. In addition, the proposal does not discuss how the information will be archived in the event access to historical data is needed. The Commission staff and the Working Group, therefore, should work to develop a final proposal to be provided to the Commission by September 30, 1994.

B. Business Practice Standards

In Order No. 563, the Commission concluded that standardization of business transactions unrelated to capacity release should be the next step in the standardization process. Working Group 3 had been considering such standards and had identified 33 high priority items, of which ten were

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Natural Gas Clearinghouse, New York Mercantile Exchange, New York State Electric and Gas, Panhandle Eastern Pipe Line, Peoples Gas Systems, Premier Gas Company, Process Gas Consumers Group, Producer-Marketer-Transportation Group, Richardson Products Co., Samson Resources Company, Tenneco Gas Marketing Co., Tennessee Gas Pipeline, Texas Eastern Transmission, Transcontinental Gas Pipe Line, Trunkline Gas Company, Valero Gas Marketing, L.P., Virginia Power, Washington Gas.

[37] Conjunctive restrictions were undefined in the proposal. According to the comment by the National Registry, one of the signatories to the agreement, conjunctive restrictions are provisions that operate across multiple points or contracts and may limit a shipper's rights at a particular receipt or delivery point. It gives as an example a shipper with stated rights 2,000 MDQs at three points, but a restriction that it cannot ship more than a total of 2,500 MDQ's from all three points on a single day.

[38] American Gas Association, Brooklyn Union Gas Company, Colorado Interstate Gas Company, Consolidated Edison Company of New York, Inc., Enron Interstate Pipelines, Koch Gateway Pipeline Company, Natural Gas Pipeline Company of America, Peoples Gas Light & Coke Company, Public Service Company of Colorado, Southern California Gas Company, Williston Basin Interstate Pipeline Company.

[39] They assert that those seeking the Index claim that it will help users locate available firm capacity. But the group argues that an Index is not needed for this purpose because firm capacity holders have every incentive to post their available firm capacity and shippers seeking capacity can post "want ads" advertising their need for capacity.

[40] ANR Pipeline Company, Arkla Energy Resources Company, Mississippi River Transmission Corporation, and Minnegasco.

[41] For example, it asserts that a replacement shipper (having obtained a package of mainline capacity) and using a particular point as an alternate point may want to acquire firm rights at that point from another shipper.

considered most critical.[42] The Commission found that standardization of these ten, or most of them, provided a good departure point for this effort. The Commission stated that the Working Group should propose an appropriate implementation schedule for the ten identified data elements. The Working Group also was to continue its efforts to identify which of the remaining 23 high priority data elements, as well as any others, require standardization and propose a schedule for implementation of standards for these elements as well.

PEC Pipeline Group contends the Commission should not be issuing mandatory standards for non-capacity release transactions. It asserts mandatory standards for such transactions would be inconsistent with the Commission's position in restructuring orders that Order No. 636 required only the posting of information related to available capacity and not information on nominations, scheduling, and gas flow. PEC Pipeline Group and Tenneco Gas assert that implementation of non-capacity release standards should be determined by the market, not regulation. Tenneco Gas also states that the industry is working on standardization related to nominations and that these standards should be reviewed first before additional standardization is attempted. Natural seeks clarification that the Commission is not prejudging or dictating the items to be standardized, but is relying on Working Group 3 to make this determination.

On the other side, NGC and NGSA contend the Working Groups are deadlocked on whether pipelines should be required to implement the high priority data elements. They contend the Commission should direct the pipelines, in conjunction with Working Group 3, to develop an implementation schedule for all 33 high priority data elements. NGC suggests that the schedule for the ten high priority items should be submitted by April 1, 1994 and for the remaining 23 by June 1, 1994.

On March 25, 1994, Working Group 3 filed a consensus agreement regarding the development of standards for non-capacity release business transactions. They anticipate completion of 12 upload and download data sets relating to confirmations and nominations by June 1, 1994.[43] At the time of the filing, 55 trading partners, including a number of pipelines, have committed to begin implementation of these data sets in June 1994, with pilot testing by December 31, 1994. Several pipelines and their trading partners are expected to be in full implementation by January 1995. The Working Group encourages other industry participants that are EDI capable to support these data sets by September 1995.

Working Group 3 anticipates it will complete its consideration of the other high priority data sets by January 1, 1995, with development of data sets by January 1, 1996 and implementation within the 6 month period from January to June, 1996. The Group states this schedule may be affected by the Group's analysis of the transactions involved and its evaluation of the use of EDI for capacity release and for nominations and confirmations.

The consensus of Working Group 3 was that significant and sufficient progress can be made in developing and implementing these standards without the Commission mandating implementation. It, therefore, recommends that the Commission accept the consensus agreement without mandating compliance with the data sets by the pipelines.[44] The Working Group commits to making quarterly progress reports, starting July 1, 1994, which will be made available to the Commission and other interested parties.[45]

Although the Commission began the standardization process with capacity release, the Commission recognizes that the process now needs to be expanded to include other business practices in order to facilitate the movement of gas across multiple pipelines. In addition to standards governing electronic communication, such standards could include other business practices, such as standardization of gas days and nomination times to help shippers schedule deliveries across multiple pipelines. The Working Group's use of a pilot program, implemented as quickly as possible, appears to be a worthwhile approach for assessing the value of proposed standards and approaches, so that lessons learned can be applied to other areas and the process can move forward quickly.

At this point, the Commission will honor the consensus agreement of Working Group 3 and allow the industry to proceed in developing such standards, without Commission mandate. The Commission applauds the progress of the industry to date and hopes that a consensus can be achieved on implementing the nomination/confirmation standards on schedule as well as implementing the additional proposed standards by the targeted dates if not earlier. The Commission also recognizes that other efforts are underway in the industry to standardize business practices. The Working Group should keep abreast of these developments and coordinate these efforts. The Commission staff will continue to actively monitor the Working Group's progress in developing these standards. Depending on the progress made by the industry in this endeavor, the Commission will evaluate the need for mandating compliance with such standards either in this docket or in another appropriate forum.

VIII. Recovery Of EBB Costs

In Order No. 563, the Commission responded to comments addressing the mechanism for recovering the costs of standardization. As a general matter, the Commission stated that its policy of permitting recovery of fixed costs through a reservation charge and variable costs through a usage charge was appropriate for the basic EBB service, which would include the downloadable data sets and communication protocols of this rule. The Commission stated that these services should be included in the basic EBB package because they were needed to provide a viable capacity release market and would provide system-wide benefits to all users. For enhancements to the basic EBB package, the Commission stated it was open to cost recovery approaches that would recover fixed costs from the limited number of users deriving benefit from the service.

KGPC states that EBB implementation and development costs should be recovered as fixed costs. Columbia Distribution and UDC/AGD, on the other hand, object to the Commission's statement that the fixed costs of the basic EBB package should be recovered through reservation charges. They assert the Commission's statement is at odds with its statement in the NOPR that it would be open to cost recovery methods that would spread costs across all those benefitting from the standards. Edison similarly contends that "data

[42] The ten elements were: timely flowing volume; timely volume allocation reports; predetermined allocations and shipper ranking; imbalance status; customer scheduled receipts and deliveries; customer specific curtailment/interruption information; customer specific operational flow orders; daily nominated volume acknowledgement; customer penalty status; and input and modify gas nominations.

[43] These data sets deal with the nomination, the request to confirm, the confirmation, and the scheduled volumes.

[44] If parties are dissatisfied with progress under the voluntary agreement, they have reserved the right to request Commission action at a later time.

[45] Great Lakes filed a comment supporting the Working Group 3 proposal and stated that it will be adding its name to the list of trading partners intent on meeting the time table set out by the Working Group.

aggregators" (companies which are not shippers on pipelines, but which will be downloading data from multiple EBBs to provide electronic services) should pay their share of the costs for additional services provided at their request. All three contend the Commission should adopt a policy on cost recovery under which the costs would be equitably shared among all users of EBBs with the precise method of cost allocation determined in section 4 rate proceedings.

UDC/AGD also request clarification of the criteria the Commission will use to determine which enhancements are not to be included in the basic EBB package. They state, for example, that some of the non-capacity release standards which the Working Groups are developing may not be of general benefit. KGPC suggests that any standards imposed by the Commission should be treated as part of the standard EBB service.

Columbia Distribution and UDC/AGD further assert the Commission's statement on cost recovery could interfere with the development of alternative cost recovery approaches by the Working Groups, and UDC/AGD contend that if the Commission does not revisit this issue, it should, at least, refer the issue to the Working Groups for further consideration. In contrast, NGSA contends that the method of cost recovery is a policy issue outside the scope of this proceeding and that the Working Groups should not be asked to resolve this issue since they are set up to deal with technical issues.

NGC requests clarification that all cost recovery related to EBBs will take place in full section 4 rate cases so that savings as well as costs can be taken into account. NGC further argues that variable costs should not be recovered through usage charges because a usage charge ignores the system-wide benefits of EBBs and other forms of electronic nominations. If the Commission does permit a separate charge for EBB use, NGC contends the Commission should not permit EDI users to be singled out for separate charges. NGC maintains that some in the industry have argued for a separate charge for EDI users because not all users find EDI suitable. NGC responds that some users find on-line EBBs equally unsuitable.

As part of the Working Groups 1 & 2 report, position papers were filed reiterating the points made above. One group [46] contends the interminable debate over the cost issue is impeding the ability of the Working Groups to complete their work.[47] They urge the Commission to resolve this issue by stating that the cost issue should be left to section 4 proceedings, and not be considered by the Working Groups.

Another group [48] supports an equitable sharing of costs by all EBB users. They assert that if firm capacity holders are required to pay all EBB costs through a reservation charge, the firm holders will be subsidizing other users of the system. They further assert that having to absorb all EBB costs will place firm users at a competitive disadvantage compared with brokers and marketers that can obtain the EBB services at no cost. This group asserts the Commission state that its policy is to equitably share costs, with the mechanics of the cost sharing approach to be developed in section 4 cases, in which the parties could consider a number of options, such as annual user fees or on-line usage charges.

The Commission will clarify its position on cost recovery. As provided in Order No. 636, the recovery of all EBB costs must take place in a full section 4 rate filing.[49] Parties are free in these proceedings to propose alternative methods of cost recovery.

The Commission recognizes that those supporting cost sharing raise a legitimate concern that users should be responsible for paying the costs that their use imposes on the system. On the other hand, in Order No. 636–A, the Commission rejected a user fee approach to EBB cost recovery in favor of a reservation charge approach out of concern about potential consequences of user fees. The Commission intended EBBs to provide for wide dispersion of information about capacity availability as well as information concerning market and system operational information. In fact, to further the secondary capacity market, the Commission has sought to remove impediments to the development of services by third parties that would aggregate information from multiple pipeline EBBs, thereby improving access to information.[50] The Commission, therefore, rejected user fees for EBBs because high user fees can work to the disadvantage of firm shippers by discouraging the use of EBBs for capacity release transactions and by providing advantages to the pipelines' sale of interruptible transportation at the expense of capacity release.[51] Without more detail about how cost sharing would work, the Commission cannot endorse a policy of equitable cost sharing at this point. The Commission, however, is not ruling out adoption of a fully supported and justified proposal of this nature. At this point, these issues are best examined in the context of an individual rate case.

Similarly, the Commission does not have sufficient basis to establish a generic standard for cost recovery for enhancements to the basic EBB package. All the standards the Commission has adopted are of sufficient system-wide benefit to be included in the basic EBB package. Also, as discussed above, the Commission will not be mandating implementation of the non-capacity release standards proposed by Working Group 3 at this time. The Working Group is proposing a pilot program to evaluate its efforts, so an attempt to develop a generic cost recovery approach for these standards is premature. At this point, cost recovery for implementation of the standards is best addressed in individual rate cases.

The Commission agrees with NGSA that cost recovery is a policy issue that need not be resolved by the Working Groups, and the Working Groups should not permit debates over cost recovery to side-track them from their work on developing standards. If parties have developed concrete proposals for alternate methods of cost recovery for particular standards, they can submit the proposals in comments on the Working Group reports or address the issue in individual section 4 cases in which EBB cost recovery is an issue.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission denies rehearing in part, grants rehearing in part, and clarifies Order No. 563 as described above.

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[46] American Iron & Steel Institute, Amoco Production Company, Chevron U.S.A. Production Company, Conoco Inc., Enron Gas Services, Gaslantic Corporation, GPM Gas Corporation, Marathon Oil Company, Natural Gas Clearinghouse, Phillips Petroleum Company, Phillips Gas Marketing Company, Process Gas Consumers, Texaco Gas Marketing Inc., Vastar Gas Marketing, Inc., Virginia Power Company.

[47] They assert some parties have held up consensus on further standardization until the group agrees to a cost allocation statement.

[48] Baltimore Gas & Electric Company, Brooklyn Union Gas Company, The Columbia Distribution Companies, Consolidated Edison of New York, New York State Electric & Gas Company, Southern California Gas Company, United Distribution Companies, Washington Gas Light Company, American Public Gas Association, Associated Gas Distributors, and New England Gas Distributor Group.

[49] Order No. 636, III FERC Stats. & Regs. Preambles at 30,460; Order No. 636–A, III FERC Stats. & Regs. Preambles at 30,664.

[50] Northwest Pipeline Corporation, 63 FERC ¶ 61,124 (1993), *aff'd*, 65 FERC ¶ 61,007 (1993).

[51] *See* Order No. 636–A, III FERC Stats. & Regs. Preambles at 30,563–64 (rejecting user charges for EBB to eliminate advantages for pipelines' interruptible service); ANR Pipeline Company, 66 FERC ¶ 61,335 (1994) (rejecting $50 usage charge).

By the Commission.

Lois D. Cashell,

Secretary.

Note: This Appendix will not appear in the Code of Federal Regulations.

APPENDIX A—DOCKET NO. RM93–4–001—PARTIES FILING REQUESTS FOR REHEARING AND CLARIFICATION

Filer	Abbreviation
ANR Pipeline Company and Colorado Interstate Gas Company.	ANR/CIG.
Arkla Energy Resources Company and Mississippi River Transmission Corporation.	AER/MRT.
Columbia Gas Distribution Companies [52].	Columbia Distribution.
Gaslantic Corporation	Gaslantic.
Interstate Natural Gas Association of America.	INGAA.
Kern River Gas Transmission Company.	Kern River.
Koch Gateway Pipeline Company	KGPC.
National Registry of Capacity Rights.	National Registry.
Natural Gas Pipeline Company of America.	Natural.
Tenneco Gas	Tenneco Gas.
Texas Eastern Transmission Corporation, Panhandle Eastern Pipe Line Company, Trunkline Gas Company, and Algonquin Gas Transmission Company.	PEC Pipeline Group.
Transcontinental Gas Pipe Line Corporation.	TGPL.
United Distribution Companies and Associated Gas Distributors.	UDC/AGD.
Southern California Edison Company.	Edison.
Natural Gas Supply Association	NGSA.
Texaco Gas Marketing, Inc	TGMI.
Enron Interstate Pipelines (Northern Natural Gas Company, Transwestern Pipeline Company, and Florida Gas Transmission Company).	Enron.
Natural Gas Clearinghouse	NGC.
Working Groups 1 & 2	Working groups 1 and 2.

[52] Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., and Commonwealth Gas Services, Inc.

[FR Doc. 94–10920 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 606 and 660

[Docket No. 92N–0497]

Biological Products; Blood Specificity Designators; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to correct certain omissions from the designators for blood specificities and make other minor, technical amendments. This action is being taken to clarify and improve the accuracy of the regulations.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is correcting certain errors that have been incorporated into the biologics regulations in parts 606 and 660 (21 CFR parts 606 and 660). The errors in the regulations are as follows:

1. In the **Federal Register** of April 19, 1988 (53 FR 12760), FDA changed the name of "Blood Grouping Serum" to "Blood Grouping Reagent" to more accurately describe the product's derivation and intended use. However, in §§ 606.65(c) and 606.121(c)(12)(i), (c)(12)(ii), and (c)(12)(iii), the name change was inadvertently omitted. The agency is correcting these errors.

2. In the **Federal Register** of February 11, 1985 (50 FR 5574), FDA changed the name of "Anti-Human Serum" to "Anti-Human Globulin" to reflect that this product may be produced from immunoglobulin-secreting cell lines as well as from serum. However, in § 606.65(c), the name change was inadvertently omitted. The agency is correcting this error.

3. Further, in § 660.28(a), the agency is revising the blood group antibody designations "Anti-c," and "Anti-k," as "Anti-c̄," and "Anti-k̄," respectively.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure and delayed effective date on this final rule are unnecessary because the changes are editorial in nature and nonsubstantive (5 U.S.C. 553(b) and (d)).

List of Subjects

21 CFR Part 606

Blood, Labeling, Laboratories, Reporting and recordkeeping requirements.

21 CFR Part 660

Biologics, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 606 and 660 are amended as follows:

PART 606—CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS

1. The authority citation for 21 CFR part 606 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 505, 510, 520, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 355, 360, 360j, 371, 374); secs. 215, 351, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263a, 264).

§ 606.65 [Amended]

2. Section 606.65 *Supplies and reagents* is amended in the table in paragraph (c), under the heading "Reagent or solution" by removing the words "Anti-human serum" and adding in their place the words "Anti-human globulin", and by removing the words "Blood grouping serums" and adding in their place the words "Blood grouping reagents".

§ 606.121 [Amended]

3. Section 606.121 *Container label* is amended in paragraphs (c)(12)(i), (c)(12)(ii), and (c)(12)(iii) by removing the word "Serum" wherever it appears, and by adding in its place the word "Reagent".

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

4. The authority citation for 21 CFR part 660 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371); secs. 215, 351, 352, 353, 361 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264).

§ 660.28 [Amended]

5. Section 660.28 *Labeling* is amended in the table in paragraph (a)(1), under the heading "Blood grouping reagent" by removing "Anti-c̄" and adding in its place "Anti-c̄"; in paragraph (a)(4), in the second sentence, by removing "Anti-k̄" the second time it appears and adding in its place "Anti-k̄".

Dated: May 2, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–10997 Filed 5–5–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

28 CFR Part 0

Redelegation of Functions; Delegation of Authority to Drug Enforcement Administration Official

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under delegated authority, the Administrator of the Drug Enforcement Administration (DEA), Department of Justice, is amending the appendix to the Justice Department regulations to redelegate certain functions and authority which were vested in the Attorney General by the Controlled Substances Act and subsequently delegated to the Administrator.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: Julie C. Gallagher, Associate Chief Counsel, Office of Chief Counsel, Drug Enforcement Administration, Washington, DC 20537. Telephone number: (202) 307–8010.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) (21 U.S.C. 801 set seq.) establishes a detailed regulatory scheme governing the manufacture and distribution of controlled substances and listed chemicals. The CSA requires that every person who manufactures, distributes, or dispenses a controlled substance or who manufactures, distributes, exports or imports certain listed chemicals must obtain a registration from DEA. An application for such registration may be denied or a registration revoked pursuant to specific provisions of the CSA.

The Attorney General has delegated her functions under the CSA to the Administrator of the Drug Enforcement Administration. See 21 U.S.C. 871(a) and 28 CFR 0.100(b). Regulations implementing the CSA empower the Administrator, for example, to issue final orders to deny applications for registration or revoke registrations, to schedule controlled substances, to designate chemicals as listed chemicals and to establish quotas.

The Attorney General has also authorized the Administrator to redelegate any of his functions under the CSA to any of his subordinates. See 28 CFR 0.104. To further enhance the administration of the CSA and its attendant regulations, the Administrator is redelegating to the Deputy Administrator the authority to exercise all necessary functions under 21 CFR part 1300 which have not already been redelegated in subpart R of 28 CFR 0.104. This redelegation will empower the Deputy Administrator, among other things, to issue final orders relating to the suspension, denial or revocation of registration, scheduling actions, designation of chemicals as listed chemicals, establishment of production quotas for certain controlled substances, and to grant or deny waivers of CSA regulations relating to registrants. This redelegation will include the authority to exercise all regulatory functions which may be delegated to the Administrator in the future pursuant to subsequent amendments to 21 CFR part 1300 and not otherwise specifically assigned or reserved by the Administrator.

The Administrator certifies that this action will have no impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601). Pursuant to Executive Order 12866, this is not a significant regulatory action since it relates only to the organization of functions within DEA. Accordingly, it has not been reviewed by the Office of Management and Budget and does not require certification under Executive Order 12778. This action has been analyzed in accordance with Executive Order 12616. It has been determined that this matter has no federalism implications which would warrant the preparation of a federalism assessment.

List of Sections in 28 CFR Part 0

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

For the reasons set forth above, and pursuant to the authority vested in the Administrator of the Drug Enforcement Administration by 28 CFR 0.100 and 0.104, and 21 U.S.C. 871, title 28, of the Code of Federal Regulations, part 0, appendix to subpart R, Redelegation of Functions, is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. The Appendix to subpart R is amended as follows:

a. Sec. 12 is added to read as follows:

Appendix to Subpart R—Redelegation of Functions

* * * * *

Sec. 12. *All other functions.* The Deputy Adminstrator is authorized to exercise all necessary functions under 21 CFR Part 1300, except those functions otherwise delegated within this subpart. This will include functions which may be vested in the Administrator in subsequent amendments to 21 CFR Part 1300 and not otherwise specifically assigned or reserved by him.

Appendix to Subpart R—[Amended]

b. Sec. 7. (a), (g), (i), and (j) shall be amended by inserting the word "Deputy" before the word "Administrator" each place it appears.

Dated: April 29, 1994.

Thomas A. Constantine,

Administrator.

[FR Doc. 94–10743 Filed 5–5–94; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1253

RIN 3095–AA56

National Archives at College Park, MD; Location of Records and Hours of Use

AGENCY: National Archives and Records Administration.

ACTION: Final rule; confirmation of interim final rule.

SUMMARY: The National Archives and Records Administration (NARA) is adopting as a final rule the interim final rule providing the location of records and hours of use at the National Archives at College Park (Archives II) facility which has opened in College Park, MD, and removing from the regulations the Pickett Street facility in Alexandria, VA, which is no longer open for research. This rule will affect the public.

DATES: The effective date of this rule is March 16, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard on (301) 713–6730.

SUPPLEMENTARY INFORMATION: NARA published an interim final rule on February 14, 1994 (59 FR 6899)

establishing the hours for the research complex at the National Archives at College Park facility located at 8601 Adelphi Road, College Park, MD 20740–6001. The effective date of the interim final rule was March 16, 1994. No comments were received during the 60-day comment period, which closed on April 15, 1994. Therefore, we are confirming in this final rule the research complex hours established in the interim final rule. These hours are 8:45 a.m. to 5 p.m., Monday and Wednesday; 8:45 a.m. to 9 p.m., Tuesday, Thursday, and Friday; and 8:45 a.m. to 4:45 p.m., Saturday.

This rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1253

Archives and records.

Accordingly, under the authority of 44 U.S.C. 2104(a), the interim final rule published at 59 FR 6899 amending 36 CFR part 1253 is adopted as final without change.

Dated: April 28, 1994.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 94–10988 Filed 5–5–94; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7041

[CO–930–4210–06; COC–28636]

Opening of Lands, Under Section 24 of the Federal Power Act, in the Secretarial Order Dated June 19, 1929, Which Established Power Site Classification No. 225; CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens, subject to the provisions of section 24 of the Federal Power Act, 211.59 acres of public land and 354.47 acres of National Forest System land withdrawn by a Secretarial order that established Power Site Classification No. 225. This action will permit disposal of the lands, but will retain the power rights to the United States. The lands have been and continue to be open to mineral leasing and, under the provision of the Mining Claims Rights Restoration Act of 1955, to mining.

EFFECTIVE DATE: June 6, 1994.

FOR FURTHER INFORMATION CONTACT:

Alexa Watson, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3796.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, section 24, as amended, 16 U.S.C. 818 (1988), and pursuant to determination by the Federal Energy Regulatory Commission in DVCO–543, it is ordered as follows:

1. At 9 a.m. on June 6, 1994, the following described land withdrawn by Secretarial Order dated June 19, 1929, which established Power Site Classification No. 225, will be opened to disposal subject to the provisions of Section 24 of the Federal Power Act, as specified by the Federal Energy Regulatory Commission in determination DVCO–543, and subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Sixth Principal Meridian

T. 13 S., R. 72 W.,
Sec. 19, lots 1, 2, 3, and SE¼NW¼.
T. 13 S., R. 73 W.,
Sec. 12, SE¼SE¼.

The area described contains 211.59 acres of public land in Park County.

2. At 9 a.m. on June 6, 1994, the following described National Forest System land withdrawn by Secretarial Order dated June 19, 1929, for Power Site Classification No. 225, will be opened to disposal subject to the provisions of section 24 of the Federal Power Act, as specified by the Federal Energy Regulatory Commission in determination DVCO–543, and subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Sixth Principal Meridian

Pike National Forest

T. 13 S., R. 72 W.,
Sec. 20, lots 3, 4, 5, 8, 9, 10, 11, 16, and W½ of lot 18;
Sec. 29, lots 5, 6, 7, and 10.

The area described contains 354.47 acres of National Forest System land in Park County.

3. The State of Colorado was afforded 90 days, as provided by the Act of June 10, 1920, as amended (16 U.S.C. 818 (1988)), but did not exercise its preference right for public highway rights-of-way and material sites on the public land described in paragraph 1.

Dated: April 14, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–10968 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 931249–3349; ID.# 042694D]

Pacific Coast Groundfish Fishery

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

ACTION: Adjustment to trip limits; clarifications; request for comments.

SUMMARY: NMFS announces a change in the trip limit for rockfish taken with set nets in the open access fishery for groundfish in the U.S. exclusive economic zone off the coast of California as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). This action is intended to keep landings as close as possible to the open access allocation without causing excessive discards. Clarifications to the management measures for 1994 also are announced. The clarifications do not result in changes to Federal management of the fishery.

DATES: Effective May 3, 1994 through December 31, 1994. Comments will be accepted by June 6, 1994.

ADDRESSES: Comments should be sent to Mr. J. Gary Smith, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0070; or Dr. Gary Matlock, Acting Director, Southwest Region, NMFS, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802–4213. Information relevant to this action has been compiled in aggregate form and is available for public review during business hours at the Office of the Director, Northwest Region, NMFS, (Regional Director) or may be obtained from the Pacific Fishery Management Council (Council), by writing Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS) 206–526–6140; or Rodney R. McInnis (Southwest Region, NMFS) 310–980–4040.

SUPPLEMENTARY INFORMATION: At its April 4–8, 1994, meeting in Burlingame,

CA, the Council recommended changes to the 1994 groundfish fishery specifications and management measures published in the **Federal Register** at 59 FR 685, on January 6, 1994. NMFS concurs with the Council's recommendations, and herein announces the following changes and clarifications for the reasons stated below.

A. Change the Open Access Trip Limit for Rockfish Caught With Set Nets

The current trip limit for all open access gear except exempted trawl gear is 10,000 pounds (4,536 kg) per trip for all rockfish combined, not to exceed 40,000 pounds (18,144 kg) cumulative in a month. Representatives of the California set net fleet testified that they frequently catch more than 10,000 pounds (4,536 kg) per trip, resulting in significant discards. The Council agreed that the 10,000-pound (4,536 kg) trip limit could be removed for the set net fishery to minimize discards and disruption of traditional fishing patterns, but the 40,000 pound (18,144 kg) cumulative limit per month must remain in effect. No change was recommended for any other open access gear because these gears have different fishing patterns and the per trip limit is not as likely to cause discards. Data are inadequate at this time to determine landings by the set net fishery or to project whether the open access allocation for rockfish will be reached before the end of the year. The set net fishery is expected to take about 20 percent of the open access allocation of rockfish. The Council agreed that the 10,000-pound (4,536 kg) trip limit may be inappropriate for this sector of the industry if large levels of discards are occurring, but warned that more severe restrictions will be implemented later in the year if necessary to avoid exceeding the open access allocation. Set nets are legal gear only south of 38° N. Latitude.

The revised trip limit modifies the document published on January 6, 1994 (59 FR 697), at paragraph IV.G.(1)(a), as follows:

G. Vessel Limits in the Open-Access Fishery

(1) Set net, hook-and-line, pot, and other exempt gear except exempted trawl gear:

(a) *Rockfish.* No more than 40,000 pounds (18,144 kg) cumulative of rockfish may be taken and retained, possessed, or landed per vessel per month. No more than 10,000 pounds (4,536 kg) of rockfish may be taken and retained, possessed, or landed per vessel per fishing trip, unless caught with a set net, in which case the 10,000-pound (4,536 kg) trip limit does not apply. Rockfish means the Sebastes complex (including yellowtail rockfish), shortbelly rockfish, widow rockfish, Pacific ocean perch, and thornyheads, as listed at 50 CFR 663.2. Within these limits, a vessel may not take and retain, possess or land more widow rockfish, Pacific ocean perch, thornyheads, DTS complex, Sebastes complex, yellowtail rockfish, or bocaccio than authorized for the limited-entry fishery. (See paragraphs B.(1), C.(2), D.(1), and E.(3).)

B. Clarify the Provision for "Fishing Ahead" on the Next Limit

Some confusion has arisen regarding the provision at 59 FR 695, paragraph IV.A.(4), that allows a vessel that already has landed its cumulative or daily limit for a species to "fish ahead" on its limit for the next cumulative or daily period. Some vessels would off-load part of their catch, keeping trip limit species on board for offloading after the next legal period begins. This is not permitted because, if a vessel off-loads any fish, all fish on board count toward the limit for the current period. The definition of "landing" at 50 CFR 663.2 states that "once transfer begins, all fish aboard the vessel are counted as part of the landing." Therefore, if a vessel off-loads any species of fish (including groundfish with no trip limits, shrimp, prawns or other nongroundfish species) while having on board a species or species group whose cumulative (or daily) limit has been reached, the fish on board will be counted toward the current period's cumulative or daily limit, which then is exceeded. Paragraph IV.A.(4) is clarified as follows:

(4) Unless the fishery is closed, a vessel which has landed its cumulative or daily limit may continue to fish on the limit for the next legal period so long as no fish (including but not limited to groundfish with no trip limits, shrimp, prawns or other nongroundfish species or shellfish) are landed (offloaded) until the next legal period. As stated in the regulations at 50 CFR 663.2, once offloading of any species begins, all fish aboard the vessel are counted as part of the landing.

C. Clarify the Calculation of the Sablefish Trawl Trip Limit

The Council originally recommended a sablefish trip limit of 25 percent of the DTS complex (Dover sole, thornyheads, and trawl-caught sablefish). This has caused some confusion. The legal limit for sablefish is difficult to determine because it is based on the total amount of legal DTS complex, including sablefish. To simplify this trip limit, NMFS is restating it in equivalent terms that are easier to calculate—25 percent of the DTS complex (including sablefish) is equivalent to 33.333 percent (approximately one third) of the legal thornyheads and Dover sole (i.e. the DTS complex excluding sablefish). Paragraph IV.E.(3)(b)(ii), at 59 FR 696, is restated below:

(b) *Trip and Size Limits*—(ii) *Trip limits.* Coastwide, no more than 50,000 pounds (22,680 kg) cumulative of the DTS complex may be taken and retained, possessed, or landed per vessel per month. Within this 50,000 pounds (22,680 kg), no more than 30,000 pounds (13,608 kg) cumulative may be thornyheads, and no more than 12,000 pounds (5,443 kg) cumulative may be trawl-caught sablefish. In any landing of the DTS complex, the trip limit for trawl-caught sablefish is 1,000 pounds (454 kg), or 33.333 percent of the legal thornyheads and Dover sole, whichever is greater. In any landing, no more than 5,000 pounds (2,268 kg) of sablefish may be smaller than 22 inches (56 cm) (total length).

Note: 33.333 percent of thornyheads and Dover sole (the DTS complex excluding sablefish) is equivalent to 25 percent of the DTS complex (including sablefish). As stated in paragraph A.(6), at 59 FR 695, percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

D. Yellowtail Rockfish Declarations

Federal trip limits for yellowtail rockfish are found at 59 FR 695, paragraph IV.C. The States of Oregon and Washington have implemented declaration procedures that enable vessels that transit or operate north of Cape Lookout (where the trip limit currently is 14,000 pounds (6,350 kg) cumulative of yellowtail rockfish per month) to fish south of Cape Lookout and retain up to the southern limit (currently 30,000 pounds (13,608 kg) cumulative per month). Details of the declaration procedure are set forth in the respective state regulations. Therefore, specific descriptions of state requirements are being removed from the **Federal Register** notice at 59 FR 696 by deleting the following sentence from paragraph IV.C.(2)(c): "For any vessel that takes and retains or lands yellowtail rockfish during the month, a declaration must be filed for each fishing trip that crosses the line at Cape Lookout during that month, must be made before leaving port on the fishing trip, and may not be changed once the vessel has left port." In the same paragraph, the reference to the "Washington Department of Fisheries" is changed to

the "Washington Department of Fish and Wildlife".

The other provisions at 59 FR 695, paragraph IV.C., that apply to vessels landing yellowtail rockfish are not changed. Vessel operators are cautioned that the States of Oregon and Washington are in the process of revising their requirements, and therefore the state where the fish will be landed should be contacted to ensure compliance with state law (Oregon Department of Fish and Wildlife, Newport, OR at 503–867–4741 or 503–867–0300; or Washington Department of Fish and Wildlife, Montesano WA, 206–249–4628).

E. Clarification of Yellowtail Rockfish Areas

Two errors occurred in the 1994 groundfish fishery specifications and management measures in the description of the stock assessment and harvest guideline areas for yellowtail rockfish. The clarifications, explained below, cause no change in management of the fishery. (1) Footnote "p" to Table 1 at 59 FR 689 incorrectly states that the stock assessment for yellowtail rockfish divides the Columbia area at Cape Lookout, OR. The geographic scope of the yellowtail rockfish acceptable biological catch (ABC) is correctly described at 59 FR 690 in the third column—ABCs were determined for the areas north and south of Cape Falcon, OR. Therefore, the first sentence of footnote "p" should read: "The yellowtail rockfish assessment addresses three separate areas: Vancouver, Columbia north of Cape Falcon, and Columbia south of Cape Falcon plus Eureka." (2) The text in the first column at 59 FR 691 incorrectly states that the harvest guidelines for yellowtail rockfish apply to the areas north and south of Cape Falcon. Cape Falcon divides a major fishing ground, making differential trip limits on either side of the line impractical. Instead, Cape Lookout, OR, which is 26 nautical miles south of Cape Falcon, was used for purposes of establishing the yellowtail rockfish harvest guidelines. Therefore, the harvest guidelines and trip limits for yellowtail rockfish apply north and south of Cape Lookout, as previously announced at 59 FR 687, Table 1, and at 59 FR 695, paragraph IV.C.

F. Renumbering Paragraphs

At 59 FR 697, paragraphs IV.G.(3) (i), (ii), and (iii) regarding open access limits for California halibut or sea cucumber trawls were inappropriately numbered, and are redesignated IV.G.(3) (a), (b), and (c), respectively. At 59 FR 698 in the first column, paragraph IV. on Recreational Fishing is redesignated as paragraph H.

Classification

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until May 18, 1994.

This action is taken under the authority of 50 CFR 663.23(c) and section III.C.1. of the Appendix to 50 CFR part 663.

This notice is exempt from review under Executive Order 12866.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, and Recordkeeping and reporting requirements.

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

Dated: May 2, 1994.

Joe P. Clem,

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

[FR Doc. 94–10900 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 87
Friday, May 6, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

[Docket No. PRM–50–59]

Virginia Power; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a notice of receipt of petition for rulemaking dated December 30, 1993, which was filed with the Commission by Virginia Power. The petition was assigned Docket No. PRM–50–59 on January 19, 1994. The petitioner requests that the Commission amend its regulations to change the frequency with which each licensee conducts independent reviews and audits of its safeguards contingency plan and security program from annually to biennially.

DATES: Submit comments July 20, 1994. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch, Washington DC 20555. For a copy of the petition, write to the Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Commission's regulations currently require that independent reviews and audits of each licensee's safeguards contingency plan and security program be conducted every 12 months by personnel who have no direct responsibility for the subject areas.

The NRC is considering rulemaking in several program areas that would modify audit requirements so that the frequency, scope, and depth of auditing activities would be based on review of program performance indicators but would not exceed a 36-month interval to accomplish an audit of all program elements. Final NRC action on this petition would be consistent with actions taken on modifications to other program audit requirements.

Petitioner's Request

Virginia Power requests that the NRC amend its regulations in 10 CFR parts 50 and 73 to change the requirements that each licensee provide for a review at least every 12 months (annually) of its safeguards contingency plan and security programs to nominally every 24 months (biennially). The petitioner also requests that appendix C to 10 CFR part 73 be amended to change the requirement that each licensee provide for a review and audit of its safeguards contingency plan at intervals not to exceed 12 months to a frequency of 24 months.

The petitioner states that the proposed amendments would require each licensee to conduct independent reviews and audits of its safeguards contingency plan and security program at least biennially. The petitioner states that the resources presently used for audits in each area could be reallocated if justified by performance to address more safety-significant concerns that might be identified. The petitioner also states that the proposed audit frequency provides a greater degree of flexibility in applying resources, thereby permitting a licensee to implement a more performance-based audit program.

Grounds for Request

The petitioner states that the changes requested are identified as present requirements that are resource intensive but of marginal importance to safety. The petitioner offers the following reasons for the request.

1. The underlying purpose of the requirements is to overview and ensure effective implementation of security programs. Given the available objective criteria that industry performance is commendable in this area, aggressive overview activities do not seem to be warranted. Resources, which previously would have been strictly dedicated to the conduct of mandatory audits, could now be more effectively used to address performance issues having safety significance. Biennial audits are sufficient to provide an acceptable, formal confirmation of security program implementation. The underlying purpose of the existing requirement will continue to be met by the proposed rule.

2. The current industry Systematic Assessment of Licensee Performance (SALP) average for the security category is 1.27 as of October 15, 1993. Clearly, this represents a commendable overall performance in this area and supports the move to biennial audits which can be supplemented as performance warrants. Based on the overall industry SALP ratings concerning safeguards contingency plan and security program effectiveness, Virginia Power concludes that changing the audit frequency to two years will have no adverse impact on implementation of the plan and program.

3. A two-year audit schedule would permit the licensee an increased degree of flexibility to concentrate available audit resources in areas of observed weakness based on performance rather than conducting a mandatory annual audit of marginal safety significance. Thus, personnel resources would be allowed to address and resolve issues having greater safety significance.

4. Regulatory Guide 1.33, Quality Assurance Program Requirements (Operation), prescribes a two-year audit frequency for most operational phase activities commensurate with the activity's operational safety significance. The proposed rule would be consistent with this previously defined regulatory position and the present safety significance as evidenced by industry performance.

5. The requirements to conduct annual audits are not of themselves necessary to achieve the underlying purpose of 10 CFR 50.54(p) and 10 CFR part 73. Biennial audits are sufficient to provide an acceptable formal confirmation of program effectiveness.

Supporting Information

The petitioner states that the regulations that require licensees to implement safeguards contingency plans and security programs are essential to ensure operation of the facilities in an environment free from

external threats. The petitioner notes that independent audits of these programs are required to overview their effectiveness. Furthermore, the petitioner believes that the frequency or extent of overview of these plans and programs by mandatory audits is not providing a commensurate performance in security programs. According to the petitioner, safeguards contingency plans and security programs have been in place in the industry for an extended period and that despite recent reconsideration of the design basis threat, nuclear security is otherwise being adequately addressed and implemented by the plans and programs as they are presently configured. The petitioner believes that a biennial audit frequency would more than adequately provide the requisite feedback and assurance regarding the effectiveness of each licensee's safeguards contingency plan and security program.

The petitioner further states that technological advancements and applications have resulted in and will continue to generate improvements to security equipment and facilities. The petitioner asserts that industry-wide programmatic enhancements continue to be made available to improve the effective utilization of security staff as well as equipment and that the results of the improvements to equipment and facilities and programmatic enhancements within nuclear safeguards and security programs over the past decade have elevated plan effectiveness throughout the industry. The petitioner notes that the improvement is evidenced, in part, through the SALP program which is used to assess security indicators.

Proposed Amendments to 10 CFR Part 50

The petitioner proposed that in § 50.54, paragraph (p)(3) be revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(p) * * *

(3) The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan. To this end, the licensee shall provide for a review nominally every 24 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems, along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of three years.

* * * * *

Proposed Amendments to 10 CFR Part 73

The petitioner proposes that in § 73.55, paragraph (g)(4) be revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(g) * * *

(4) The security program must be reviewed nominally every 24 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection, for a period of three years.

* * * * *

The petitioner proposes that the text of appendix C to part 73 following the Audit and Review heading be revised to read as follows:

Appendix C—Licensee Safeguards Contingency Plans

* * * * *

Audit and Review

Nominally every 24 months, the licensee shall provide for a review of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities. The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. The report must be maintained in an auditable form, available for inspection for a period of three years.

Conclusion

The petitioner states that this petition for rulemaking merely allows successful, existing functions to continue without formal review at a frequency of nominally every two years rather than once per 12 months. The petitioner states that the annual audit frequency is not necessary to ensure an adequate safeguards contingency plan and security program, nor is it commensurate with present industry performance in this area. Further, the petitioner states that it is not required to support NRC evaluation of program adequacy.

Dated at Rockville, Maryland, this 2nd day of May 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 94–10917 Filed 5–5–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AGL–11]

Modification of Class D Airspace; Traverse City, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action would modify the official description of the Class D airspace associated with the Cherry Capital Airport, Traverse City,

Michigan, by adding the phrase: "This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport Facility Director." On September 18, 1993, Airspace Reclassification discontinued the use of the terms "control zone" and "airport traffic area." Airspace designated from the surface for an airport where there is an operating control tower is now Class D airspace. The intended effect of this action is to allow a variation of Class D airspace effective times to coincide with the operating hours of the Traverse City, Michigan, Airport Traffic Control Tower at Cherry Capital Airport.

DATES: Comments must be received on or before June 9, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 94–AGL–11, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Robert J. Woodford, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AGL–11." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contract with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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–220, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the official description of the Class D airspace associated with the Cherry Capital Airport, Traverse City, Michigan. The purpose of this proposed amendment is to allow a variation to the Class D airspace effective times to coincide with the operating hours of the Traverse City ATCT.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace designation listed in the document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 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 9 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

Section 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 5000 General

* * * * *

AGL MI D Traverse City, MI [Revised]

Cherry Capital Airport, MI
(Lat. 44°44'27" N., long 85°34'57" W.)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.4-mile radius of Cherry Capital Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on April 19, 1994.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–10958 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 93–ASW–28]

Proposed Establishment of Restricted Area R–6302E; Fort Hood, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Restricted Area R–6302E, Fort Hood, TX, above the existing Restricted Areas R–6302A, B, C, and D, at Fort Hood, TX. The proposed Restricted Area R–6302E would provide special use airspace to accommodate the firing of heatseeker missiles at the Fort Hood Army Airfield (AAF) weapons complex.

DATES: Comments must be received on or before June 22, 1994

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 93–ASW–28, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASW–28." The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land use aspects to: Director, Engineering and Housing, Environmental Management Office, Fort Hood, TX 76544–5056. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) to establish Restricted Area, R–6302E, Fort Hood, TX, above the existing Restricted Areas R–6302A, B, C, and D, to accommodate the firing of heatseeker missiles at the Fort Hood AAF weapons complex. The maximum altitude of the existing Fort Hood restricted area is 30,000 feet mean sea level (MSL). The proposed Restricted Area R–6302E would coincide with the existing lateral boundaries of Restricted Areas R–6302A, B, C, and D, and would extend from 30,000 feet MSL to 45,000 feet MSL. This action is a result of a Special Use Airspace Review conducted at the Fort Hood AAF in May 1993. The proposed Restricted Area R–6302E would be a joint-use restricted area, activated by NOTAM 48 hours in advance, not to exceed 90 days per year, weather makeup days included. The airspace would be returned to the controlling agency when not required for military activities. The U.S. Army does not expect any increase in the total annual usage of the area as a result of this proposal.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be reviewed for environmental impact prior to any final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

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

PART 73—[AMENDED]

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

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

2. Section 73.63 is amended as follows:

§ 73.63 [Amended]

R–6302E Fort Hood, TX [New]

Boundaries: Beginning at lat. 31°24′01″–N., long. 97°48′01″–W.;
To lat. 31°23′01″ N., long. 97°43′01″ W.;
To lat. 31°22′08″ N., long. 97°41′56″ W.;
To lat. 31°21′01″ N., long. 97°41′01″ W.;
To lat. 31°20′01″ N., long. 97°41′01″ W.;
To lat. 31°14′01″ N., long. 97°33′01″ W.;
To lat. 31°06′01″ N., long. 97°33′01″ W.;
To lat. 31°08′01″ N., long. 97°39′01″ W.;
To lat. 31°10′01″ N., long. 97°41′01″ W.;
To lat. 31°09′01″ N., long. 97°43′31″ W.;
To lat. 31°09′01″ N., long. 97°55′01″ W.;
To lat. 31°16′01″ N., long. 97°54′01″ W.;
To lat. 31°19′01″ N., long. 97°51′01″ W.;
To the point of beginning.

Designated altitudes: 30,000 feet MSL to 45,000 feet MSL.

Times of designation: By NOTAM 48 hours in advance.

Controlling agency: FAA, Houston ARTCC.

Using agency: U.S. Army, Commanding Officer, Fort Hood, TX.

Issued in Washington, DC, on April 26, 1994.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 94–10959 Filed 5–5–94, 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 300

Rules and Regulations Under the Wool Products Labeling Act of 1939

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the "Commission") is requesting public comments on its Rules and Regulations under the Wool Products Labeling Act of 1939 (the "Wool Act"). The Commission is also requesting comments about the overall costs and benefits of the Rules and their overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until June 6, 1994.

ADDRESSES: Send comments to Secretary, Federal Trade Commission, Room H–159, Sixth & Pennsylvania Ave. NW., Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Wool Act, 16 CFR part 300—Comment."

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or recision.

At this time, the Commission solicits written public comments concerning the Commission's Rules and Regulations under the Wool Act.

The Wool Act (15 U.S.C. 68) requires marketers of covered wool products to mark each product with (1) the generic names and percentages by weight of the constituent fibers present in the wool product; (2) the name under which the manufacturer or other responsible company does business, or in lieu thereof, the registered identification number (RN) of such company; and (3) the name of the country where the wool product was processed or manufactured. Furthermore, the Wool Act contains advertising and recordkeeping provisions. Pursuant to Section 6(a) of the Wool Act, "[t]he Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act * * * and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." (15 U.S.C. 68d(a).) These implementing rules and regulations are set forth at 16 CFR part 300. The Commission solicits public comments on the following questions:

1. Is there a continuing need for the Rules and Regulations issued under the Wool Act?

a. What benefits have the Rules provided to purchasers of the products or services affected by the Rules?

b. Have the Rules imposed costs on purchasers?

2. What changes, if any, should be made to the Rules to increase the benefits of the Rules to purchasers?

a. How would these changes affect the costs the Rules impose on firms subject to their requirements?

3. What significant burdens or costs, including costs of compliance, have the Rules imposed on firms subject to their requirements?

a. Have the Rules provided benefits to such firms?

4. What changes, if any, should be made to the Rules to reduce the burdens or costs imposed on firms subject to their requirements?

a. How would these changes affect the benefits provided by the Rules?

5. Do the Rules overlap or conflict with other federal, state, or local laws or regulations?

6. Since the Rules were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rules?

Authority: 15 U.S.C. 68 *et seq.*

List of Subjects in 16 CFR Part 300

Advertising, Labeling, Recordkeeping, Wool products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–10940 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 301

Rules and Regulations Under the Fur Products Labeling Act

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the "Commission") is requesting public comments on its Rules and Regulations under the Fur Products Labeling Act (the "Fur Act"). The Commission is also requesting comments about the overall costs and benefits of the Rules and their overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until June 6, 1994.

ADDRESSES: Send comments to Secretary, Federal Trade Commission, room H–159, Sixth & Pennsylvania Ave., NW., Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Fur Act, 16 CFR part 301—Comment."

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or recision.

At this time, the Commission solicits written public comments concerning the Commission's Rules and Regulations under the Fur Products Labeling Act.

The Fur Act (15 U.S.C. 69) requires covered furs and fur products to be labeled, invoiced, and advertised to show (1) the name(s) of the animal that produced the fur(s); (2) that the fur is used fur or that the fur product contains used fur, when such is the fact; (3) that the fur product or fur is bleached, dyed, or otherwise artificially colored, when such is the fact; and (4) the name of the country of origin of any imported furs used in the fur product. Furthermore, the Fur Act contains invoicing, advertisting, and recordkeeping provisions. Pursuant to Section 8(b) of the Fur Act, "[t]he Commmision is authorized and directed to prescribe rules and regulations * * * as may be

necessary and proper for purposes of administration and enforcement of this Act." (15 U.S.C. 69f(b).) These implementing rules and regulations are set forth at 16 CFR part 301.

Currently, Rules 19 and 27 (16 CFR 301.19 and 301.27) include provisions where measurements are expressed exclusively in inches or fractions of inches. Under Executive Order 12770 of July 25, 1991 (56 FR 35801, July 29, 1991), and the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205b), all federal agencies are required to use the SI metric system of measurement in all procurements, grants, and other business-related actvities (which includes rulemakings), except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. To comply with these requirements, should the Commission elect to retain Rules 19 and 27 after conducting this review, the wording of these provisions will be altered to include the metric equivalents in parentheses beside the measurements in inches.

Rule 19(i)(1) (16 CFR 301.19(i)(1)) would be revised to read: "Any person dressing, processing, or treating a fur pelt in such a manner that it is required under paragraph (e) or (h) of this section to be dsecribed as 'color altered' or 'color added' shall place a black stripe at least one half inch (1.27 cm) in width across the leather side of the skin immediately above the rump or place a stamp with a solid black center in the form of either a two inch (5.08 cm) square or a circle at least two inches (5.08 cm) in diameter on the leather side of the pelt and shall use black ink for all other stamps or markings on the leather side of the pelt."

Rule 19(i)(2) (16 CFR 301.19(i)(2)) would be revised to read: "Any person dressing, processing or treating a fur pelt which after processing is considered natural under paragraph (g) of this section shall place a white stripe at least one-half inch (1.27 cm) in width across the leather side of the skin immediately above the rump or place a stamp with a solid white center in the form of either a 2-inch (5.08 cm) square or a circle at least 2 inches (5.08 cm) in diameter on the leather side of the pelt and shall use white ink for all other stamps or markings on the leather side of the pelt."

Rule 19(i)(3) (16 CFR 301.19(i)(3)) would be revised to read: "Any person dressing, processing or treating a fur pelt in such a manner that it is considered dyed under paragraph (d) of this section shall place a yellow stripe at least one-half inch (1.27 cm) in width across the leather side immediately above the rump or place a stamp with a solid yellow center in the form of either a 2-inch (5.08 cm) square or a circle at least 2 inches (5.08 cm) in diameter on the leather side of the pelt and shall use yellow ink for all other stamps or markings on the leather side of the pelt."

Rule 19(1)(2) (16 CFR 301.19(1)(2)) would be revised to read: "A recommended method for preparation of samples would be: Carefully pluck hair samples from 10 to 15 different representative sites on the pelt or garment. This can best be accomplished by using a long nose stainless steel pliers with a tip diameter of 1/16 inch (1.59 mm). The pliers should be inserted at the same angle as the guard hairs with the tip opened to ¼ inch (6.35 mm). After contact with the hide, the tip should be raised about ¼ inch (6.35 mm), closed tightly and pulled quickly and firmly to remove the hair."

The first sentence of Rule 27 (16 CFR 301.27) would be revised to read: "At all times during the marketing of a fur product the required label shall have a minimum dimension of one and three-fourths (1¾) inches by two and three-fourths (2¾) inches (4.5 cm × 7 cm)."

These are technical, non-substantive amendments to Rules 19 and 27 which merely provide metric equivalents to the measurements expressed in inches; they do not create any new requirements. Thus, under the Administrative Procedure Act (5 U.S.C. 553 *et seq.*), no formal rulemaking proceeding is necessary to implement these revisions.

If the Commission elects to retain Rule 43 (16 CFR 301.43), "Use of deceptive trade or corporate names, trademarks or graphic representations prohibited," after conducting this review, it intends to update certain terms to reflect statutory and policy changes that have occurred since Rule 43 was originally promulgated. The phrase "capacity or tendency to mislead or deceive" would be changed to conform with the language regarding deception that is set forth in Cliffdale Associates, Inc., 103 F.T.C. 110, 164–65 (1984) and subsequent cases.

Accordingly, the Commission solicits public comments on the following questions:

1. Is there a continuing need for the Rules and Regulations issued under the Fur Act?

a. What benefits have the Rules provided to purchasers of the products or services affected by the Rules?

b. Have the Rules imposed costs on purchasers?

2. What changes, if any, should be made to the Rules to increase the benefits of the Rules to purchasers?

a. How would these changes affect the costs the Rules impose on firms subject to their requirements?

3. What significant burdens or costs, including costs of compliance, have the Rules imposed on firms subject to their requirements?

a. Have the rules provided benefits to such firms?

4. What changes, if any, should be made to the Rules to reduce the burdens or costs imposed on firms subject to their requirements?

a. How would these changes affect the benefits provided by the Rules?

5. Do the Rules overlap or conflict with other federal, state, or local laws or regulations?

6. Since the Rules were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rules?

Authority: 15 U.S.C. 69 *et seq.*

List of Subjects in 16 CFR Part 301

Advertising, Invoicing, Labeling, Recordkeeping, Fur products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–10939 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the "Commission") is requesting public comments on its Rules and Regulations under the Textile Fiber Products Identification Act (the "Textile Act"). The Commission is also requesting comments about the overall costs and benefits of the Rules and their overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until June 6, 1994.

ADDRESSES: Send comments to Secretary, Federal Trade Commission, room H–159, Sixth & Pennsylvania Ave., NW., Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Textile Act, 16 CFR part 303—Comment."

FOR FURTHER INFORMATION CONTACT:

Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or revision.

At this time, the Commission solicits written public comments concerning the Commission's Rules and Regulations under the Textile Act.

The Textile Act (15 U.S.C. 70) requires marketers of covered textile products to mark each product with (1) the generic names and percentages by weight of the constituent fibers present in the textile product; (2) the name under which the manufacturer or other responsible company does business, or in lieu thereof, the registered identification number (RN) of such company; and (3) the name of the country where the textile product was processed or manufactured. Furthermore, the Textile Act contains advertising and recordkeeping provisions. Pursuant to section 7(c) of the Textile Act, "[t]he Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." (15 U.S.C. 70e(c).) These implementing rules and regulations are set forth at 16 CFR part 303.

Currently, Rules 10, 21, 32, and 45 (16 CFR 303.10, 303.21, 303.32, and 303.45) include provisions where measurements are expressed exclusively in inch/pound units. Under Executive Order 12770 of July 25, 1991 (56 FR 35801, July 29, 1991), and the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205b), all federal agencies are required to use the SI metric system of measurement in all procurements, grants, and other business-related activities (which includes rulemakings), except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. To comply with these requirements, should the Commission elect to retain Rules 10, 21, 32, and 45 after conducting this review, the wording of these provisions will be altered to include the metric equivalents in parentheses beside the measurements in inch/pound units.

Rule 10(b) (16 CFR 303.10(b)) would be revised to read: "Where drapery or upholstery fabrics are manufactured on hand-operated looms for a particular customer after the sale of such fabric has been consummated, and the amount of the order does not exceed 100 yards (91.44 m) of fabric, the required fiber content disclosure may be made by listing the fibers present in order of predominance by weight with any fiber or fibers required to be designated as "other fiber" or "other fibers" appearing last, as for example:

Rayon
Wool
Acetate
Metallic
Other fibers"

Rule 21(a)(1) (16 CFR 303.21(a)(1)) would be revised to read: "If the samples, swatches, or specimens are less than two square inches (12.9 cm^2) in area and the information otherwise required to appear on the label is clearly, conspicuously, and non-deceptively disclosed on accompanying promotional matter in accordance with the Act and regulations;"

Rule 32 (16 CFR 303.32) would be revised to read: "Any upholstered product, mattress, or cushion which contains stuffing which has been previously used as stuffing in any other upholstered product, mattress, or cushion shall have securely attached thereto a substantial tag or label, at least 2 inches (5.08 cm) by 3 inches (7.62 cm) in size, and statements thereon conspicuously stamped or printed in the English language and in plain type not less than ⅓ inch (8.38 mm) high, indicating that the stuffing therein is composed in whole or in part of "reused stuffing," "secondhand stuffing," "previously used stuffing," or "used stuffing."

Rule 45(a)(xv) (16 CFR 303.45(a)(xv)) would be revised to read: "Flags with heading or more than 216 square inches (13.9 dm^2) in size;"

These are technical, non-substantive amendments to Rules 10, 21, 32, and 45 which merely provide metric equivalents to the measurements expressed in inch/pound units; they do not create any new requirements. Thus, under the Administrative Procedure Act (5 U.S.C. 553 *et seq.*), no formal rulemaking proceeding is necessary to implement these revisions.

Accordingly, the Commission solicits public comments on the following questions:

1. Is there a continuing need for the Rules and Regulations issued under the Textile Act?

a. What benefits have the Rules provided to purchasers of the products or services affected by the Rules?

b. Have the Rules imposed costs on purchasers?

2. What changes, if any, should be made to the Rules to increase the benefits of the Rules to purchasers?

a. How would these changes affect the costs the Rules impose on firms subject to their requirements?

3. What significant burdens or costs, including costs of compliance, have the Rules imposed on firms subject to their requirements?

a. Have the Rules provided benefits to such firms?

4. What changes, if any, should be made to the Rules to reduce the burdens or costs imposed on firms subject to their requirements?

a. How would these changes affect the benefits provided by the Rules?

5. Do the Rules overlap or conflict with other federal, state, or local laws or regulations?

6. Since the Rules were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rules?

Authority: 15 U.S.C. 70 *et seq.*

List of Subjects in 16 CFR Part 303

Advertising, Labeling, Recordkeeping, Textile fiber products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–10938 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 455

Regulatory Flexibility Act and Periodic Review of Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the "Commission") is soliciting comments on the Used Motor Vehicle Trade Regulation Rule (the "Used Car Rule" or "Rule"). Specifically, the Commission is requesting comments about the overall costs and benefits of the Rule and its overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides. Additionally, in accordance with the Regulatory Flexibility Act, the Commission is soliciting comments and data on whether the Used Car rule has

had a significant economic impact on small entities, and if it has, whether the Rule should be amended to minimize any such economic impact on small entities. The Commission also is soliciting comments on two nonsubstantive amendments the Commission proposes to make to the Spanish language version of the Buyers Guide.

DATES: All comments and data should be received by the Commission no later than July 5, 1994.

ADDRESSES: Comments and data should be sent to Secretary, Federal Trade Commission, Washington DC 20580. Submissions should be identified as "Used Car Rule—"Review Comment."

FOR FURTHER INFORMATION CONTACT: George Brent Mickum IV, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, (202) 326–3132.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission promulgated the Used Car Rule, 16 CFR part 455, under the authority of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.* ("FTC Act"), and the Magnuson Moss Warranty Act, 15 U.S.C. 2309, on November 19, 1984. 49 FR 45692 (1984). The Rule became effective on May 9, 1985. Any violation of the Rule constitutes an unfair or deceptive act or practice under the FTC Act, and is subject to civil penalties of up to $10,000 per violation.

The Used Car Rule is primarily intended to prevent oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. The Rule provides a uniform method for written disclosure of warranty information on a window sticker called the "Buyers Guide." The Rule requires clear disclosure on the Buyers Guide of the basic terms and conditions of any warranty offered in connection with the sale of a used car, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the exact systems covered by the warranty.

The Rule also requires other disclosures that must be printed directly on the Buyers Guide, including:

(1) A suggestion that consumers ask the dealer if a pre-purchase inspection is permitted;

(2) A warning against reliance on spoken promises that are not confirmed in writing; and

(3) A list of fourteen major systems of an automobile and the major problems that may occur in these systems. The Rule also provides that the Buyers Guide disclosures are to be incorporated by reference into the sales contract, and are to govern in the event of an inconsistency between the Buyers Guide and the sales contract. When used car dealers conduct sales in the Spanish language, Spanish language Buyers Guides are required.

II. Rule Reviews

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (the "RFA"), requires that the FTC conduct a periodic review of rules that have or may have a significant economic impact on a substantial number of small entities. In addition, as part of its oversight responsibilities, the Commission has determined to review rules and guides periodically. See 59 FR 2955 (Jan. 20, 1994). Both reviews will seek information about the costs and benefits of the Commission's rules and guides and their regulatory impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or rescission.

The purpose of the RFA review is limited to determining whether the Rule should be continued without change, or should be amended or rescinded, consistent with the state objectives of applicable statutes, to minimize any significant economic impact of the Rule upon a substantial number of small entities. For the purpose of the RFA review, a "small entity" is a used motor vehicle dealer with less than $11.5 million in annual sales, as defined by the Small Business Size Standards, 13 CFR 121.601. The purpose of the Commission's periodic review is to solicit comment on issues relating to the operation of the Rule. This review is not limited to the Rule's impact on small entities, but encompass all affected entities.

III. Request for Comment

The Commission solicits comment on the following questions and requests that any factual data (*e.g.*, economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

1. Is there a continuing need for the Rule?

a. What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

b. Has the Rule imposed costs on purchasers?

2. What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers?

a. How would these changes affect the costs the Rule imposes on firms subject to its requirements?

3. What significant burdens or costs, including costs of compliance, has the Rule imposed on firms subject to its requirements?

a. Has the Rule provided benefits to such firms?

4. What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements?

a. How would these changes affect the benefits provided by the Rule?

5. Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

6. Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?

7. What significant burdens or costs, including costs of compliance, has the Rule imposed on small firms subject to its requirements?

a. How do these burdens or costs differ from those imposed on larger firms subject to the Rule's requirements?

8. To what extent are the burdens or costs that the Rule imposes on small firms similar to those that small firms would incur under standard and prudent business practices?

9. What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on small firms?

a. How would these changes affect the benefits of the Rule?

b. Would such changes adversely affect the competitive position of larger firms?

10. How many used vehicles (as defined by § 455.1(d)(2) of the Rule) are sold annually in the United States?

11. How many used car dealers have under $11.5 million in annual sales?

12. Should the Rule's requirement that the Buyers Guide be posted in a side window of a used vehicle, as set forth in § 455.2(a)(1) of the Rule, be modified to allow posting in a different location (for example, in the rear window of a pickup truck or other vehicle without side rear windows), as long as the Buyers Guide is conspicuous and both sides may be readily viewed?

13. What changes to the format of the Buyers Guide should be considered in order to reduce compliance costs or burdens? Would such changes have any detrimental effect on the benefits provided by the Rule? Is there any empirical or other evidence to support opinions that such changes would or would not have a detrimental effect on benefits?

14. What changes to the format of the Buyers Guide should be considered in

order to increase its benefits? What effect would such changes have on the costs or burdens imposed by the Rule? Is there any empirical or other evidence to support opinions that such changes would or would not increase costs or burdens?

IV. Non-Substantive Amendments to the Rule

The Commission also solicits comment on two non-substantive amendments the Commission proposes to the Rule involving the Spanish language version of the Buyers Guide, § 455.5 of the Rule. The first proposed change is grammatical: The "As Is" ("Como Esta-Sin Garantia") section of the Buyers Guide reads "El vendedor no asume ninguna responsabilidad por cualquier *las reparaciones* * * *" (emphasis added). This language will be amended to read: "El vendedor no asume ninguna responsabilidad por cualquier reparacione * * *" The second suggested modification appears in the "Warranty" ("Garantia") section of the Buyers Guide. The word "vendedo" in the second full sentence will be amended to read "Pida al *vendedor* una copia del documento * * *."

List of Subjects in 16 CFR Part 455

Motor vehicles, Trade practices.

Authority: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1980).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–10937 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Regulatory Program Amendment

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

ACTION: Withdrawal of State program amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed regulatory program amendment (Administrative Record No. KY–1260) filed by Kentucky on November 17, 1993, pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), relating to the disposal of coal combustion fly ash, bottom ash and scrubber sludge.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503 Telephone: (606) 233–2896.

SUPPLEMENTARY INFORMATION:

Background

By letter dated November 17, 1993 (Administrative Record No. KY–1260), Kentucky submitted a proposed program amendment that would add a new section (405 KAR 7:200) to Kentucky's Administrative Regulations. The proposed new regulation offers surface coal mining permittees the option to dispose of coal combustion waste on the permit area under the special waste permit-by-rule established at 401 KAR 45:060 Section 1(6).

OSM announced receipt of the proposed amendment in the January 13, 1994, **Federal Register** (59 FR 1921) and, in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on February 14, 1994.

By letter dated April 18, 1994, Kentucky gave OSM notice that it was withdrawing the program amendment, submitted on November 17, 1993, from further consideration. The regulation, which was the subject of the amendment, completed the promulgation process and took effect on March 13, 1994. During promulgation, a letter of objection was attached to the regulation by the Administrative Regulation Review Subcommittee, with the result that the regulation expired April 15, 1994, upon adjournment of the regular session of the 1994 Kentucky General Assembly. During the same legislative session, Senate bill 266 which addresses the same issues, was enacted into law and has been submitted to OSM as a proposed amendment to the Kentucky regulatory program and will be the subject of a separate rulemaking by OSM.

Therefore, the proposed program amendment published in the **Federal Register** dated January 13, 1994, related to the disposition of coal combustion fly ash, bottom ash and scrubber sludge is withdrawn.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 28, 1994.

Ronald C. Recker,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–10866 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 298

Defense Investigative Service Freedom of Information Act Program

AGENCY: Defense Investigative Service, Defense.

ACTION: Proposed rule and request for comments.

SUMMARY: This document is published to conform to the final rule published for the Department of Defense regarding implementation of the Freedom of Information Act Program. It addresses organizational and administrative changes within the Defense Investigative Service. It proposes changes to the agency directive which implements the Freedom of Information Act.

DATES: Comments are requested by July 5, 1994.

ADDRESSES: Forward comments to Defense Investigative Service, ATTN: Mr. Dale L. Hartig, Chief, Office of Information and Public Affairs, 1340 Braddock Place, Alexandria, Virginia 33214–1651. FAX No. (703) 325–6545.

FOR FURTHER INFORMATION CONTACT: Mr. Dale L. Hartig, Chief, Office of Information and Public Affairs, (703) 325–5324; FAX No. (703) 325–6545.

SUPPLEMENTARY INFORMATION: It has been certified that this proposed rule does not exert a significant economic impact on a substantial number of small entities. This determination is made based upon the fact that the rule merely recodifies the procedural aspects of the Defense Investigative Service Freedom of Information Act Program, which includes guidance on how and from whom to request information pertaining to the Defense Investigative Service; it imposes no new requirements, rights, or benefits on small entities; and will have neither a beneficial nor adverse affect on small entities. Prior publication of this rule may be found at 53 FR 36968, September 23, 1988. Redesignated and amended at 56 FR 58180, November 16, 1991.

List of Subjects in 32 CFR Part 298

Freedom of information.

Accordingly, 32 CFR part 298 is proposed to be revised to read as follows:

PART 298—DEFENSE INVESTIGATIVE SERVICE (DIS) FREEDOM OF INFORMATION ACT PROGRAM

Sec.

298.1 Purpose.
298.2 Organization.
298.3 Records maintained by DIS.
298.4 Procedure for release of DIS records.
298.5 Information requirements.

Authority: 5 U.S.C. 552

§ 298.1 Purpose.

This part states the intent of the agency regarding policy and procedures for the public to obtain information from the Defense Investigative Service (DIS) under the Freedom of Information Act (FOIA).

§ 298.2 Organization.

(a) The DIS organization includes a Headquarters located in Alexandria, Virginia; four Regions and one investigative area with subordinate operating locations throughout the Continental United States (CONUS), Alaska, Hawaii, and Puerto Rico; the Defense Industrial Security Clearance Office (DISCO), Columbus, Ohio; the Personnel Investigations Center (PIC) and National Computer Center (NCC) in Baltimore, Maryland; Office of Industrial Security International Europe (OISI–E), located in Brussels, Belgium with a subordinate office in Mannheim, Germany; Office of Industrial Security International Far East (OISI–FE) located at Camp Drake, Japan; and the Department of Defense Security Institute, located in Richmond, Virginia.

(b) A copy of the DIS Directory showing the addresses of all offices, is available to the public upon request and may be obtained by following the procedures outlined in § 298.4. The names and duty addresses of DIS personnel serving overseas are not released.

§ 298.3 Records maintained by DIS.

It is the policy of DIS to make publicly available all information which may be released under the Freedom of Information Act (FOIA), consistent with its other responsibilities. In implementing this policy, DIS follows the procedures set forth in 32 CFR part 286. DIS maintains the following records which may be of interest to the public:

(a) The Defense Clearance and Investigations Index (DCII), which contains references to investigative records created and held by DoD Components. The records indexed are primarily those prepared by the investigative agencies of the DoD, covering criminal, fraud, counterintelligence, and personnel security information. This index also includes security clearance determinations made by the various components of the Department of Defense. Information in the DCII is not usually available to the general public, since general release would violate the privacy of individuals whose names are indexed therein.

(b) Records created as required by DoD Directive 5105.42,[1] "Defense Investigative Service (DA&M)," (32 CFR part 377) including investigative and industrial security records.

(c) Publications referenced in "DIS Directives Listing" (DIS 00–1–L). A copy of DIS 00–1–L may be obtained upon request from the DIS Office of Information and Public Affairs (V0020), 1340 Braddock Place, Alexandria, VA 22314–1651. While this document will be provided for the convenience of possible users of the materials, such release does not constitute a determination that all or any of the publications listed affect the public or have been cleared for public release.

§ 298.4 Procedures for release of DIS records.

(a) All requests will be submitted in writing to: Defense Investigative Service, Office of Information and Public Affairs (V0020), 1340 Braddock Place, Alexandria, Virginia 22314–1651.

Requests directed to any agency activity (headquarters or field elements) will be forwarded to the Office of Information and Public Affairs.

(b) All requests shall contain the following information:

(1) As complete an identification as possible of the desired material including to the extent known, the title, description, and date. 32 CFR part 286 does not authorize "fishing expeditions." In the event a request is not reasonably described as defined in 32 CFR part 286, the requester will be notified by DIS of the defect.

(2) The request must contain the first name, middle name or initial, surname, date and place of birth, social security number, and, if applicable, military service number of the individual concerned, with respect to material concerning investigations of an individual.

(3) A statement as to whether the requester wishes to inspect the record or obtain a copy of it.

(4) A statement that all costs for search (in the case of "other" and "commercial" requesters), duplication (in the case of all categories of requesters), and review (in the case of "commercial requesters") will be borne by the requester even if no records, or no releasable records, are found, if appropriate. See 32 CFR part 286 for information on fees and fee waivers.

(5) The full address (including ZIP code) of the requester.

(c) A notarized request by an individual requesting investigative or other personnel records may be required to avoid the risk of invasion of privacy. Requesters will be notified and furnished appropriate forms if this requirement is deemed necessary. In lieu of a notarized statement, an unsworn declaration in accordance with 28 U.S.C. 1746 may be required.

(d) When a request is incomplete or fails to include all of the information required, the requester will be contacted for additional information prior to beginning release procedures.

(e) DIS shall normally respond to requests within 10 working days after receipt by the Office of Information and Public Affairs, unless an extension is required and the requester is notified in writing. If a significant number of requests prevents responding in 10 working days, requests will be processed on a first-come, first-served basis to ensure equitable treatment to all requesters.

(f) When the release of information has been approved, a statement of costs computed in accordance with the DoD Fee Schedule (32 CFR part 286), or a statement waiving the fee, will be included in the notification of approval. Records approved for release will generally be mailed immediately following the receipt of fees. Fees may be waived or reduced in accordance with 32 CFR part 286. Remittances must be in the form of a personal check, bank draft, or postal money order. Remittances are to be made payable to the Treasurer of the United States. Certified documents may be requested for an official government or legal function, and will be provided at a rate established by 32 CFR part 286 for each authentication.

(g) When requests are denied in whole or in part in accordance with 32 CFR part 286, the requester will be advised of the identity of the official making the denial, the reason for the denial, the right of appeal of the decision, and the identity of the person to whom an appeal may be addressed.

(h) Facilities for the review or reproduction of records following approval of the request or appeal are

[1] Copy may be obtained at cost from National Technical Information Service (NTIS), 5285 Port Royal, Springfield, VA 22161.

available at the Defense Investigative Service, Office of Information and Public Affairs, 1340 Braddock Place, Alexandria, Virginia 22314–1651. All other transactions will be conducted by mail.

(i) Appeal of Denial of DIS Records and Information:

(1) All appeals will be submitted in writing and reach the following appellate authority no later than 60 days after the date of the initial denial letter: Director, Defense Investigative Service (V0000), 1340 Braddock Place, Alexandria, Virginia 22314–1651.

(2) All appeals will contain at least the same identification of the records requested as the original request, and a copy of the letter denying the request, if available. Requesters will be given appeal rights when a search has been conducted and no records are located.

(3) All appeals will be reviewed by the Director, DIS, or the Special Assistant to the Director, DIS. Responses to appeals normally shall be made within 20 working days after receipt, unless an extension is required and the appellant is notified. When a request is approved on appeal, the procedures set forth in § 298.4(f) will be followed.

§ 298.5 Information requirements.

The DIS Office of Information and Public Affairs is responsible for preparation of the annual "Freedom of Information Act Report." This report has been assigned control symbol PA (TRA&AN) 1365. No forms or publications are required by this part.

Dated: May 3, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–10931 Filed 5–5–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 181

[CGD 92–065]

RIN 2115–AE37

Expanded Hull Identification Number and New Requirements for Certificates of Origin

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes amending the regulations concerning vessel Hull Identification Numbers (HIN) and establishing new regulations requiring Certificates of Origin for new vessels offered for sale in the United States. The Coast Guard is proposing the regulations in order to provide additional information identifying vessels and establishing evidence of vessel ownership to aid in marine investigations, deter theft, and provide a more useful vessel identifier for the purposes of developing the vessel identification system, as required by legislation. The Coast Guard also proposes to make several editorial corrections to its HIN regulations.

DATES: Comments must be received on or before September 6, 1994.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 92–065), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

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

A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at room 1505, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Auxiliary, Boating, and Consumer Affairs Division, (202) 267–0981.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 92–065) and the specific section of this proposal to which each comment applies, and give a reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

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

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES.** If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Mr. Alston Colihan, Project Manager, and Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

The Secretary of Transportation is required to establish the Vessel Identification System (VIS) (46 U.S.C. chapters 125, 131 & 313) for use by the public and law enforcement officials. The Secretary has delegated to the Commandant, U.S. Coast Guard, the authority to implement VIS. VIS will provide a nationwide pool of vessel and vessel owner information that will help in identification and recovery of stolen vessels and deter vessel theft. This rulemaking would aid in the development of VIS by expanding the existing 12 character HIN to include certain vessel-specific information and thereby create a more useful vessel identification number. Further, requiring vessel manufacturers and importers to provide a Certificate of Origin with each vessel produced or imported for the purposes of sale would ensure the availability of documentation certifying this information and establishing a chain of ownership.

Discussion of Proposed Amendments

Investigations of lost and stolen vessels depend in large part on the proper authorities' ability to identify a vessel and establish a chain of ownership. The proposed regulations would aid in this pursuit by expanding the current 12 character HIN to include detailed information about each vessel. In addition, a check digit in the expanded HIN would make alteration of an HIN more difficult thereby helping to prevent fraud in the sale of vessels. The proposed regulations would also require that vessel manufacturers provide a Certificate of Origin certifying the truth about certain information in the HIN and for use as the first document in the

paper trail establishing proof of vessel ownership.

Removal of the definition for "model year" would clear up a drafting error which has existed since the last time the HIN regulations were amended in 1984. Finally, removal of the references to "State Boating Law Administrator" in 33 CFR 181.31(c) would allow States which use their Department of Motor Vehicles as vessel numbering and titling authorities to issue HINs to individuals building their own vessels.

The following discusses the proposed changes to 33 CFR part 181:

(a) "Model Year" Definition

The definition of "model year" would be removed from § 181.3. Up until 1984 the regulations allowed for two methods of indicating the date of manufacture in the last four characters of the 12 character HIN. When those two formats were devised, it was the Coast Guard's understanding that the new model year would not commence prior to August. Some manufacturers complained that they wanted to vary the introduction date of the new model year from year to year, but that they were prevented from doing so by the HIN regulations which defines model year as the period beginning August 1 of any year and ending on July 31 of the following year. The Coast Guard amended the HIN regulations in 1984 to give vessel manufacturers the freedom to designate model year in the HIN as they requested. The Coast Guard amended § 181.25(a) to require characters 11 and 12 to indicate the model year using the last two characters of the model year such as "84" for 1984. However, due to a drafting error, the Coast Guard failed to delete the outdated and superfluous definition of "model year." The proposed amendments would remove the definition of "model year" from part 181.

(b) Incorporation by Reference

The following material would be incorporated by reference in § 181.4:

International Organization for Standardization (ISO) Standard 3166 "Codes for the representation of names of countries." International Organization for Standardization (ISO) Standard 1073/I–1976 "Alphanumeric character sets for optical recognition—Part I: Character Set OCR–A—Shapes and dimensions of the printed image." Copies of the material are available for inspection where indicated under **ADDRESSES.** Copies of the material are available at the addresses in § 181.4. Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporations by reference.

ISO Standard 3166 contains two character alphabetic codes which would be used to indicate the "country code" in the expanded HIN. ISO Standard 1073/I–1976 prescribes shapes and sizes of alphanumeric characters for optical character recognition (OCR) systems, which means that the characters are both human and machine readable.

(c) Nineteen Character Hull Identification Number

The existing Hull Identification Number (HIN) is a unique 12 character serial number required on each recreational vessel manufactured in or imported into the United States for the purposes of sale. The Coast Guard assigns the first three characters, a Manufacturer Identification Code (MIC) which identifies the manufacturer or importer; characters four through eight are a manufacturer serial number; characters nine and ten indicate date of certification for vessels subject to safety standards or the date of manufacture for vessels not subject to standards; and characters eleven and twelve indicate the model year.

There are two serious problems involving the current 12 character HIN format. Thieves can alter an HIN and "launder" a stolen vessel in States with ineffective titling and registration programs. Similarly, the last four characters in many HINs are fraudulently altered as a means of misrepresenting vessels as "newer."

As early as May 1987, the National Auto Theft Bureau (NATB), which is supported by more than 600 casualty insurance companies, recommended that the Coast Guard adopt a 17 character HIN format (similar to the format required for the Vehicle Identification Number [VIN] on an automobile) as a means of detecting and deterring vessel theft. Each VIN contains certain characters which describe features such as body style and engine type which are specific to the automobile to which the VIN is assigned. A VIN also contains a check digit which assures the integrity of the other characters in a VIN. According to the NATB and officials of the National Association of State Boating Law Administrators (NASBLA), the additional HIN characters would lead to increased recovery of stolen vessels and more successful enforcement efforts, thereby deterring would-be thieves.

During meetings with the International Standards Organization (ISO) some ISO member countries expressed a desire for the Coast Guard to include a two character country of MIC registration code as part of the expanded HIN format to distinguish between MICs issued by different foreign countries. The Coast Guard agrees that including the two character country of MIC registration code in the proposed HIN would be appropriate.

The proposed expanded HIN would consists of 19 characters. The additional seven characters would indicate country of MIC registration, length, hull material, principal means of propulsion, vessel type and a check digit. The expanded HIN with its check digit would reflect additional information useful to law enforcement authorities investigating vessel thefts and provide a useful means of identifying vessels in VIS.

Section 181.25 would be revised to require that each of the Hull Identification Numbers prescribed by § 181.23 must consist of 19 characters uninterrupted by slashes, hyphens or spaces:

(1) Characters one and two would be the two character alphabetic "country code" from ISO Standard 3166. The country code for Manufacturer ID Codes the Coast Guard assigns in the United States, for example, would be "US."

(2) Characters three through five would be the existing manufacturer identification code the Coast Guard assigns to the vessel manufacturer in accordance with § 181.31(a).

(3) Characters six through ten would be the serial number the manufacturer currently assigns in accordance with § 181.25(b).

(4) Characters eleven and twelve would indicate date of certification for vessels subject to safety standards or the date of manufacture for vessels not subject to standards in accordance with the existing format specified in § 181.25(c).

(5) Characters thirteen and fourteen would indicate the model year in accordance with the existing format specified in § 181.25(d).

(6) The fifteenth character would indicate overall length of the vessel using a corresponding letter of the English alphabet. The character, "A," would indicate a vessel with a hull length of less than six feet; "B" would indicate a vessel with a hull length of six feet to 10 feet, 11 inches; "C" would indicate 11 feet; "D" would indicate 12 feed, and so on. The character, "Z", would indicate a vessel with a hull length of more than 31 feet. Inches would not be included in the measurement of length, therefore, 15 feet, 10 inches is 15 feet and 16 feet, 2 inches is 16 feet.

(7) The sixteen character would indicate hull material using a

corresponding Arabic numeral. Arabic numerals one through eight would indicate aluminum, ferrocement, fiber reinforced plastic (FRP), flexible fabric, foam, plastic, steel and wood, respectively.

(8) The seventeenth character would indicate the principal means of propulsion of the vessel using a corresponding Arabic numeral. Arabic numerals one through nine would indicate air propeller, bracket mounted outboard, inboard, inboard jet, inboard/outdrive, nonpowered, outboard, sail and sail with inboard auxiliary, respectively. Footnotes to a table in this section would distinguish between which Arabic numerals to use to indicate nonpowered vessels, sailboats and sailboats with auxiliary power.

(9) The eighteenth character would indicate the type of vessel using a corresponding Arabic numeral. Arabic numerals one through nine would indicate air cushion vehicle; canoe, kayak, sailboard or surfboard; inflatable; monohull/cabin configuration; monohull/closed bow; monohull/open bow; multihull/cabin or closed bow; multihull/open deck; and personal watercraft, respectively. Footnotes to a table in this section would distinguish between which Arabic numerals to use to indicate the vessel types described above.

(10) The nineteenth character would be a check digit determined by performing certain arithmetic calculations involving the previous 18 characters. Characters consisting of letters of the English alphabet would be converted to corresponding numerical values. A diagram in the section would show how the calculations should be performed. The Coast Guard has developed a computer program which calculates the check digit and is available to any vessel manufacturer with a computer. The Coast Guard has also developed several work sheets to help determine the HIN for a vessel which are also available.

(d) Reference to State Boating Law Administrator

Section 181.31 prescribes the regulations on the assignment of a Manufacturer Identification Code (MIC) to each recreational vessel manufacturer and importer. According to § 181.31(c), persons who are building vessels for their own use and not for the purposes of sale, must obtain an entire Hull Identification Number from the State Boating Law Administrator of the State where the vessel will be principally used, in lieu of applying for a MIC. A number of the States use their Department of Motor Vehicles (DMV) for numbering and titling of vessels and the DMV would issue a State HIN. Under the proposed amendments, references to "State Boating Law Administrator" would be removed from the section and the words "the issuing authority of the State" would be added in their place.

(e) Certificate of Origin

The Secretary is required to include information assisting law enforcement officials in VIS (46 U.S.C. 12501(b)(6)). A Certificate of Origin (COO) is a document issued by a product's manufacturer certifying to the truth of certain facts. Many States require vessel owners to provide a COO before they will issue a title or register and number a vessel. Thus, a COO is usually the first document in the paper trail identifying a vessel and establishing proof of ownership. Unfortunately, many vessel manufacturers do not issue COOs for vessels they manufacture or they issue COOs which many States consider unacceptable.

A purchaser's possession of a standardized COO for a vessel would ensure that documentation of the vessel's chain of ownership is established. This would aid law enforcement investigations by providing a means to demonstrate vessel ownership as well as providing a means to certify vessel information that could be used in the development of VIS.

Under the proposed amendments the Coast Guard would add a new Subpart D—"Certificates of Origin for Boats." The proposed amendments would require manufactures and U.S. importers of foreign-built vessels to provide a completed COO with each vessel manufactured or imported. The issuing authorities in the States would be given the option of issuing COOs to individuals building their own vessels or exempting them from the requirement altogether.

Discussion of Proposed Form

The Coast Guard is considering the development of a standardized COO form. For the reader's convenience, a prototype of a proposed form is reproduced in appendix A. This form should be considered in conjunction with the proposed regulations. Comments or suggestions pertaining to the format or content will be welcomed. Also, the Coast Guard specifically seeks comments on the most cost efficient manner to create and distribute the forms. Any proposed form will be submitted to the Office of Management and Budget for approval prior to publication of the final rule.

Discussion of Requirement for Certificate of Origin

A COO furnished with a recreational vessel in accordance with § 181.43 would:

(a) Be signed by or on behalf of the vessel manufacturer; and

(b) Recite the following:

(1) The vessel's 19 character hull identification number assigned in accordance with § 181.25;

(2) The date on which the COO is issued;

(3) The model name or numerical designation for the vessel;

(4) The length of the vessel in feet and inches;

(5) The beam of the vessel in feet and inches;

(6) Whether the vessel is for commercial or recreational use;

(7) The name and address of the dealer or individual to whom the vessel is first transferred; and

(8) The place the vessel is constructed (plant location).

Solicitation of Views

The Coast Guard is particularly interested in receiving comments on the following issues:

(a) The majority of the recreational vessel manufacturers are small volume builders who lack computers and cannot use a computer program developed by the Coast Guard. These manufacturers may have a difficult time determining the check digit in the proposed 19 character Hull Identification Number. When using simple arithmetic, those calculations may take as long as 15 minutes per vessel. Is 15 minutes a reasonable estimate for performing the calculation?

(b) Should the Coast Guard consider expecting certain classes of low cost vessels from the 19 character HIN, or do States which number all watercraft insist on universal application of this requirement?

(c) Are there other methods for calculation of the check digit which are not as time consuming and will still assure the integrity of the other characters in an HIN?

(d) The proposed regulations will require a COO for each new vessel manufactured or imported. Since a COO is unique to the vessel to which it is assigned, there may be some additional requirements associated with ensuring that the proper COO accompanies each vessel, particularly for importers of inflatables and similar, high volume, low cost vessels which are shipped in bulk containers. As a result, the COO requirement in the proposed regulations may require change in the manner in

which small, high volume vessels are packaged for shipment. Should the Coast Guard consider excepting from the COO requirement certain classes of low cost vessels, or vessels involving special problems associated with the manner in which they are shipped?

(e) Do the States which number all watercraft insist on universal application of the COO requirement?

(f) A prototype of a proposed COO form is reproduced in appendix A. The Coast Guard proposes issuing a COO template to all boat manufactures and importers which they could copy to make COO forms for each boat. The Coast Guard would partially complete the COO templates with each manufacturer (or importer) name and address and the first five characters of the HIN as a means for minimizing information collection burdens.

However, the Coast Guard is seeking comments on whether the proposed COO contains sufficient security features and information to make it an effective document. The NASBLA Numbering and Titling Committee has recommended, through a mailing to the Coast Guard, that the COO form be machine readable utilizing the OCR–A font which provides the criteria for character set and print quality for optical character recognition; be uniform in all jurisdictions; and conform to the following format, standards, security, and specifications:

(1) Have an engraved border produced from banknote engraved artwork;

(2) Feature a prismatic, i.e., rainbow printing which is used as a deterrent to color copying, and/or a copy void pantograph, i.e., the word "void" appears when the document is copied;

(3) Be printed using erasable fluorescent background inks which fluoresce under ultraviolet light and react to any attempt to erase information;

(4) Include a background security design consisting of a repetitious pattern which hinders counterfeiting efforts;

(5) Be printed on sensitized security paper that is reactive to chemicals commonly used to alter documents;

(6) Be printed on non optical brightener paper without added optical brighteners which will not fluoresce under ultraviolet light;

(7) Include a microline—a line of small alpha characters in capital letters which requires a magnifying glass to read;

(8) Bear a pre-printed consecutive number for control purposes;

(9) Consist of complex colors which are developed by using a mixture of two or more of the primary colors (red, yellow and blue) and black if required; and

(10) Contain a security thread with or without a watermark, and/or an intaglio print with or without a latent image, and/or a security laminate.

The Coast Guard's preliminary investigations indicate that due to the high cost of creating forms meeting the NASBLA suggested requirements, the Coast Guard could not absorb the cost of printing COO forms meeting the NASBLA security features. The Coast Guard does not have the authority to charge manufacturers to reimburse the Coast Guard for its expenditures on COO forms. Therefore, if the Coast Guard were to adopt the NASBLA recommended security features, manufacturers would be responsible for creating or purchasing the forms on their own.

Are there interested parties who believe the NASBLA recommended security features would be appropriate for a State issued certificate of title, but are excessive for a manufacturer issued certificate of origin?

Some manufacturers build thousands of vessels annually, while others may build as few as a single vessel annually. What do printers estimate would be the costs to various volume boat manufacturers for creating and printing forms meeting the NASBLA recommended security features?

If the Coast Guard were able to obtain authorized funding, what would be the cost to the Coast Guard for creating, printing, partially completing, and distributing forms meeting the NASBLA recommended security features to various volume boat manufacturers?

Once the contents and security features of a finalized COO form are developed, based upon comments received, what are the most equitable and cost-efficient methods for creating, printing, and distributing COO forms to boat manufacturers?

(g) The proposed § 181.47 addresses the subject of duplicate COO forms.

(1) Who should be able to apply for a duplicate COO form from a boat manufacturer?

(2) What information should a duplicate COO contain?

(3) Should an affidavit or other type of proof be required as a condition to obtaining a duplicate COO form?

(4) If a duplicate COO must contain the same information as an original, should the regulations require the manufacturer to retain a copy of each original COO form? For how long?

Regulatory Assessment

This proposal is not a significant regulatory action under Executive Order 12866, and has not been reviewed by the Office of Management and Budget. It is also not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Assessment is unnecessary.

This project would benefit law enforcement officers by aiding in deterrence and detection of vessel fraud and theft. An estimated 2,000,000 recreational vessels are manufactured or imported annual. Issuing authorities in the States issue an estimated 17,000 HINs to individuals building their own vessels annually. This means an estimated 2,017,000 HINs are affixed annually. The estimated average cost for the affixing the existing 12 character HIN is $.50 per vessel. The estimated cost of expansion to a 19 character format is an additional $.25 per vessel, for a total cost of approximately $.75 per vessel.

The Coast Guard is soliciting specific comments on the estimated costs for COOs.

The Coast Guard considered three alternatives in developing the proposed rulemaking.

(a) Take no action. If the Coast Guard fails to take any action, the numbers of vessels stolen and the incidence of vessel fraud involving altered HINs will continue to increase. In addition, the development of VIS requires a means for identification of each vessel and proof of vessel ownership. Use of the 19 character HIN and a COO requirement appear to be the best way to accomplish those requirements. Many of the States and many law enforcement agencies support the proposal for a 19 character HIN and NASBLA, the National Boating Safety Advisory Council (NBSAC) and the National Association of Marine Investigators (NAMI), all support Coast Guard adoption of the 19 character HIN. The Coast Guard has also received numerous complaints from owners who are unable to register their vessels because they do not have a COO.

(b) Initiate a rulemaking to:

(1) Amend the HIN regulations in 33 CFR part 181 to require additional information about the vessel to be reflected in the HIN and add a requirement for a check digit to aid in the prevention of fraud, thereby expanding the current HIN format from 12 to 19 characters; and

(2) Require manufacturers and importers to complete a Builder's Certification.

Expanding the HIN to 19 characters would provide the best means of developing a vessel identifier for VIS

and help to discourage and detect alterations of HINs through inclusion of the check digit. While requiring all vessel manufacturers to provide a completed Builder's Certification would have the advantage of utilizing one form for all vessels whether documented, numbered or titled, it would prove overly burdensome to many manufacturers and importers.

The Builder's Certification is designed for use by those documenting a vessel under 46 CFR part 67. Obtaining endorsements for documented vessels requires detailed information about the vessel, including the country in which the vessel and its major components were manufactured. Since a COO does not satisfy these documentation information requirements, it is not accepted as evidence of ownership for the purposes of documentation. The Builder's Certification satisfies documentation requirements, but would require information well beyond what is needed for VIS purposes and it would be overly burdensome to require manufacturers and importers to complete a Builder's Certification for every recreational vessel. The estimated reporting burden for the Builder's Certification is 30 minutes, while the estimated burden to complete the COO is five minutes. Therefore, requiring a Builder's Certification is not the preferred alternative for establishing the chain of ownership for the purposes of VIS.

(c) Initiate a rulemaking to:

(1) Amend the HIN regulations in 33 CFR part 181 to require additional information about the vessel to be reflected in the HIN and add a requirement for a check digit to aid in the prevention of fraud, thereby expanding the current HIN format from 12 to 19 characters; and

(2) Require manufacturers and importers to provide a completed COO for each recreational vessel they manufacture or import. This is the preferred alternative.

This alternative would provide VIS with the preferred 19 character HIN as well as the best method of establishing the chain of ownership for VIS purposes through the COO requirement. The COO requirement would provide all the information necessary for VIS and would take just five minutes to complete.

Small Entities

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

The proposed regulations will apply to the following small entities: Small manufacturers building vessels, small importers importing vessels and State issuing authorities.

There are reporting requirements associated with an expanded HIN that could be more burdensome to small entities than to the larger volume manufacturers, especially in the calculation of the check digit. Eighty percent of the new recreational vessels manufactured annually are build by 20 percent of the industry. These are large companies with engineering departments that are equipped with computers and the expertise to understand and properly encode the additional characters and the check digit. The majority of the recreational vessel manufacturers, however, are small volume builders who may have a more difficult time implementing the regulations and making the necessary calculations to determine the check digit. When using simple arithmetic, those calculations may take as long as 15 minutes per vessel. The Coast Guard has developed a computer program which calculates the check digit which is available to any vessel manufacturer with a computer. The Coast Guard has also developed several work sheets to help determine the HIN for a vessel and the worksheets are also available. Therefore, preliminary analysis indicates that a 19 character HIN will not have a significant economic impact on a substantial number of small entities.

The requirement for a COO may also result in additional requirements for small entities. Since a COO is unique to the vessel to which it is assigned, there may be some additional requirements associated with assuring that the proper COO accompanies each vessel, particularly for importers of inflatables and similar, high volume, low cost vessels which are shipped in bulk containers. As a result, the COO requirement in the proposed regulations may require changes in the manner in which small, high volume vessels are packaged for shipment. However, a preliminary analysis indicates that the COO requirement will not result in a significant impact on a substantial number of small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, labeling and other, similar requirements.

This proposal contains collection of information requirements in the following sections: 181.23, 181.31 and 181.43. The following particulars apply:

DOT: 2115.

OMB CONTROL No.: 2115–XXXX.

Administration: U.S. Coast Guard

Title: Expanded Hull Identification Number and New Requirements for Certificates of Origin.

Need for Information: The information collection requirements contained in this proposal are necessary to meet statutory requirements of 46 U.S.C. chapter 125 regarding the establishment of a national vessel identification system for recreational vessel owners.

Proposed Use of Information: To be used by State agencies, local law enforcement, the Coast Guard and other Federal agencies and be available, on a fee basis, to private businesses involved in the maritime industry (such as banking firms and insurance companies) as a centralized data base regarding recreational vessels.

Burden Estimate: See discussion below.

Respondents: Boat manufacturers and importers (4,000), individuals building their own vessels (17,000) and issuing authorities in States and territories of the United States (56).

Forms: Hull Identification Number and Certificate of Origin

Average Burden Hours Per Respondent: Variable. There is no practical way to estimate the burden per respondent for the Hull Identification Number regulations. The respondents are vessel manufacturers and importers and State vessel registration and numbering authorities and members of the public who build their own vessels.

Some manufacturers produce thousands of vessels annually, while others may produce only a single vessel annually.

There are approximately 4,000 U.S. manufacturers and importers of recreational vessels. They manufacture or import an estimated 2,000,000 recreational vessels annually.

Eighty percent are built by major manufacturers. For those manufacturers the Coast Guard estimates five minutes per vessel to determine the HIN and affix it to the vessel:

.80×2,000,000=1,600,000 vessels
5×1,600,000=8,000,000 minutes=133,333 hours.

Twenty percent of the vessels are built by small and often non-sophisticated manufacturers. For those manufacturers the Coast Guard estimates 15 minutes per vessel to determine the HIN and affix it to the vessel:

.20×2,000,000=400,000 vessels
15×400,000=6,000,000 minutes=100,000 hours.

An estimated 17,000 individuals build their own vessels annually. Individuals building their own vessels are assigned an entire Hull Identification Number by the State in which they reside. The Coast Guard estimates that it takes an individual approximately 15 minutes to affix the HIN to a vessel:

17,000×15=255,000 minutes=4,250 hours
133,333+100,000+4,250=237,583 hours a total annual burden.

This total annual burden estimate would vary from year to year depending upon the state of the national economy which impacts upon annual production figures.

There is also no practical way to estimate the burden per respondent for the proposed COO requirement. The respondents are vessel manufacturers and importers and State vessel registration and numbering authorities and members of the public who build their own vessels. Most manufacturers with a computer will not suffer from significant burdens, because the computer can be programmed to generate completed COOs. For those manufacturers the Coast Guard estimates 3 minutes per vessel to complete a COO:

.80×2,000,000=1,600,000 vessels
3×1,600,000=4,800,000 minutes=80,000 hours.

Twenty percent of the vessels are built by small and often non-sophisticated manufacturers. For those manufacturers the Coast Guard estimates 5 minutes per vessel to type the required information (security standards would require that the COO be machine prepared):

.20×2,000,000=400,000 vessels
5×400,000=2,000,000 minutes=33,333 hours.

Approximately 17,000 individuals build their own vessels annually. The States assign Hull Identification Numbers to individuals building their own vessels. For individuals the Coast Guard estimates 30 minutes per vessel to obtain a COO from the State.

30×17,000=510,000=8,500 hours.

States and territories participating in VIS and assigning Hull Identification Numbers would have computers to generate the COO and HIN on the basis of information supplied by an individual. The Coast Guard estimates 5 minutes for States or territories to enter information about a vessel into a computer and generate a COO:

5×17,000=85,000=1,416 hours
80,000+33,000+8,500+1,416=122,916 hours total annual burden.

This annual burden estimate could be substantially higher or lower from year to year depending upon the state of the national economy, which impacts upon annual production figures.

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. These regulations will benefit State boating authorities enforcing State titling and registration regulations.

Title 46 U.S.C. 4302 authorizes the Coast Guard to establish HIN regulations. Unless the Secretary provides an exemption, a State may not establish, continue in effect, or enforce a law or regulation that is not identical to a regulation prescribed under 46 U.S.C. 4302. Therefore, the Coast Guard intends to preempt State and local laws and regulations which are not identical to the Coast Guard's HIN or COO requirements. Title 46 U.S.C. chapter 125 requires the Coast Guard to establish VIS requirements. The States' participation in VIS is entirely voluntary; however, once a State elects to participate, it must comply with the requirements of VIS in order to ensure the integrity and uniformity of the system. Therefore, only those States meeting all of the VIS requirements will be allowed to participate in the VIS system, and the Coast Guard would preempt State and local laws prescribing requirements for VIS which are not identical to those the Coast Guard prescribes.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.b.2(1) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. This proposal governs labeling and the issuance of COOs for vessels, and has no environmental consequences. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 181 as follows:

PART 181—MANUFACTURER REQUIREMENTS

1. The authority citation for part 181 is revised to read as follows:

Authority: 46 U.S.C. 4302, 12501, 12502; 49 CFR 1.46.

2. In § 181.3, paragraph (f) is revised to read as follows:

§ 181.3 Definitions.

* * * * *

(f) *Certificate of origin* means form CG–XXXX.

* * * * *

3. In § 181.4, paragraph (b) is amended by adding the following incorporations by reference in alphabetical order:

§ 181.4 Incorporation by reference.

* * * * *

(b) * * *

American National Standards Institute, Customer Service Sales Department, 11 West 42nd Street, New York, NY 10036.

ISO 3166–88 Codes for the representation of names of countries.....§ 181.25(a)
ISO 1073/I–1976 Alphanumeric character sets for optical recognition—Part I: Character Set OCR–A—Shapes and dimensions of the printed image.....§ 181.45(b)

* * * * *

4. Section 181.25 is revised to read as follows:

§ 181.25 Hull identification number format.

Each of the hull identification numbers required by § 181.23 must

consist of nineteen characters, uninterrupted by slashes, hyphens, or spaces, as follows:

(a) The first two characters must be an alphabetic code from column 2 of ISO 3166–88 indicating the country of manufacturer identification code registration.

(b) Characters three through five must be a manufacturer identification code assigned under § 181.31(a) or the importer designation assigned under § 181.31(b).

(c) Characters six through ten must be a serial number assigned by the manufacturer in letters of the English alphabet, or Arabic numerals, or both, and may not include the letters, I, O and Q.

(d) Characters eleven and twelve must indicate the month and year of certification when a date of certification is required. In all other cases characters eleven and twelve must indicate the date of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date the vessel leaves the place of manufacture or assembly or is imported into the United States for the purposes of sale. Character eleven must be indicated using letters of the English alphabet. The first month of the year, January, must be designated by the letter "A", the second month, February, by the letter "B", and so on until the last month of the year, December. Character twelve must be the last digit of the year of manufacture or certification and must be an Arabic numeral.

(e) Characters thirteen and fourteen must indicate the model year using Arabic numerals for the last two numbers of the model year such as "94" for 1994 and "95" for 1995.

(f) The fifteenth character must indicate the overall length of the vessel using the corresponding letter of the English alphabet from Table 181.25(f).

TABLE 181.25(F).—CHARACTERS REPRESENTING LENGTH OF BOAT [1]

Character	Length
A	Less than 6 ft.
B	6 ft to 10 ft.
C	11 ft.
D	12 ft.
E	13 ft.
F	14 ft.
G	15 ft.
H	16 ft.
J	17 ft.
K	18 ft.
L	19 ft.
M	20 ft.
N	21 ft.
P	22 ft.
R	23 ft.
S	24 ft.
T	25 ft.
U	26 ft.
V	27 ft.
W	28 ft.
X	29 ft.
Y	30 ft.
Z	31 ft or more.

[1] Inches are not included in the measurement of length, e.g., 15 ft 10 in is 15 ft and 16 ft 3 in is 16 ft.

(g) The sixteenth character must indicate the hull material of the vessel using the corresponding Arabic numeral from Table 181.25(g).

TABLE 181.25(G).—CHARACTERS REPRESENTING HULL MATERIAL OF VESSEL

Character	Hull material
1	Aluminum.
2	Ferrocement.[1]
3	Fiber Reinforced Plastic.
4	Flexible Fabric.[2]
5	Foam.
6	Plastic.[3]
7	Steel.
8	Wood.

[1] Ferrocement includes all types of concrete and portland cement.

[2] Flexible fabric can be distinguished from plastic sheet by the absence of any woven material.

[3] Plastic includes flexible plastic sheet, rigid sheet which has been thermoformed, and rotational molded plastic.

(h) The seventeenth character must indicate the principal means of propulsion of the vessel using the corresponding Arabic numeral from Table 181.25(h).

TABLE 181.25(H).—CHARACTERS REPRESENTING PRINCIPAL MEANS OF PROPULSION

Character	Principal propulsion
1	Air Propeller.
2	Bracket mounted outboard.
3	Inboard.
4	Inboard jet.
5	Inboard/Outdrive.
6	Non-powered.[1]
7	Outboard.
8	Sail.[2]
9	Sail w/Inboard Auxiliary.

[1] Non-powered includes pedals, paddles and oars, but not sails.

[2] Sail includes sailboats which may have a small outboard engine for auxiliary power.

(i) The eighteenth character must indicate the type of vessel using the corresponding Arabic numeral from Table 181.25(i).

TABLE 181.25(I).—CHARACTERS REPRESENTING TYPE OF BOAT

Character	Type
1	Air Cushion Vehicle.[1]
2	Canoe, Kayak, Sailboard, Surfboard.
3	Inflatable.[1]
4	Monohull/Cabin Configuration.[2]
5	Monohull/Closed Bow.[3]
6	Monohull/Open Bow.[4]
7	Multihull/Cabin or closed Bow.[2,3,5]
8	Multihull/Open Deck.[4,5]
9	Personal Watercraft.[6]

[1] Air Cushion Vehicle is sometimes called a hovercraft, which is a registered trademark.

[2] Cabin configuration includes full cabin, cuddy cabin, houseboat, and in general any shelter containing berths, or other accommodations for personnel.

[3] Closed bow is most commonly called a runabout and includes any type of forward deck which is not a shelter for personnel.

[4] Open bow or Open Deck includes utility boats, open deck bass boats, and most center console vessels.

[5] Multihull includes any watercraft where there are distinct hulls connected by a common deck such as trihulls, catamarans and pontoon boats.

[6] Personal watercraft comprise a wide variety of craft on which the operator and/or passengers ride, rather than occupy a passenger carrying area inside the hull.

(j) The nineteenth character must be a check digit calculated as follows:

(1) On line A of Figure 181.25(j) enter the first eighteen characters of the HIN.

(2) On line B enter the value of each character in the HIN.

(3) Multiply each number in line B by its corresponding number in line C for each of the eighteen digits and enter the product of each of these separate computations in the appropriate spaces in line D.

(4) Add all the numbers recorded in line D together.

(5) Divide the final sum by the number, 10. The remainder of this division is the check digit, the nineteenth character in the HIN. If the remainder is zero, the nineteenth character is 0.

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FIGURE 181.25(j)

DIAGRAM FOR CALCULATING CHECK DIGIT

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
A																		
B[1]																		
C	9	8	7	6	5	4	3	2	9	8	7	6	5	4	3	2	9	8
D																		

[1]Values of characters in Hull Identification Number (line B)

A-2	H-9	O-0	V-4	1-1	8-8
B-3	I-1	P-7	W-5	2-2	9-9
C-4	J-2	Q-0	X-6	3-3	0-0
D-5	K-3	R-8	Y-7	4-4	
E-6	L-4	S-9	Z-8	5-5	
F-7	M-5	T-2		6-6	
G-8	N-6	U-3		7-7	

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5. In § 181.31, paragraph (c) is revised to read as follows:

§ 181.31 Manufacturer identification code assignment.

* * * * *

(c) Each person required to identify a vessel under § 181.23(b) must obtain a hull identification number from the issuing authority of the State where the vessel will be principally used, or, if the States does not assign these numbers, from the Coast Guard District office in the area of principal use.

* * * * *

6. A new subpart D is added to read as follows:

Subpart D—Certificates of Origin for Boats

Sec.

181.41 Purpose and applicability.
181.43 Certificate of Origin required.
181.45 Required information for Certificate of Origin.
181.47 Duplicate Certificate of Origin form.
181.49 Source for Certificate of Origin form.
181.51 Alteration of Certificate of Origin.
181.53 Fraudulent use of Certificate of Origin.
181.55 Unauthorized name or address change.

Subpart D—Certificates of Origin for Boats

§ 181.41 Purpose and applicability.

This subpart prescribes requirements for the issuance of Certificates of Origin (CG–XXXX) to vessels to which this part applies.

§ 181.43 Certificate of Origin required.

(a) A manufacturer (or importer) as defined in § 181.3 of this part, shall furnish with each new recreational vessel that is sold or offered for sale, a Certificate of Origin (CG–XXXX) containing the information required by this subpart.

(b) No person shall sell or offer for sale a new recreational vessel unless a Certificate of Origin (CG–XXXX) meeting the requirements of this subpart is furnished with the recreational vessel.

§ 181.45 Required information for Certificate of Origin.

A Certificate of Origin (CG–XXXX) furnished with a recreational vessel in accordance with § 181.43 must—

(a) Be signed by or on behalf of the vessel manufacturer; and

(b) Recite the following:

(1) The vessel's 19 character hull identification number assigned in accordance with § 181.25.

(2) The date the Certificate of Origin is issued.

(3) The model name or numerical designation for the vessel.

(4) The length of the vessel in feet and inches.

(5) The beam of the vessel in feet and inches.

(6) Whether the vessel is for commercial or recreational use.

(7) The name and address of the dealer or individual to whom the vessel is first transferred.

(8) The place the vessel is constructed (plant location).

§ 181.47 Duplicate Certificate of Origin form.

A duplicate Certificate of Origin form (CG–XXXX) issued by a boat manufacturer or importer that is used as a replacement for an original CG–XXXX, must:

(a) Incorporate the same security features as the original CG–XXXX;

(b) Recite the same information as the original CG–XXXX required in § 181.45, except for the date of issuance; and

(c) State clearly on the face of the document that it is a "Duplicate."

§ 181.49 Source for Certificate of Origin form.

A manufacturer (or importer) as defined in § 181.3 of this part, must obtain Certificate of Origin forms (CG–XXXX) from: [Address to be inserted in final rule].

§ 181.51 Alteration of Certificate of Origin.

No person shall intentionally alter a Certificate of Origin (CG–XXXX).

§ 181.53 Fraudulent use of Certificate of Origin.

No person shall knowingly use a Certificate of Origin (CG–XXXX) in a fraudulent manner.

§ 181.55 Unauthorized name or address change.

No manufacturer or importer who issues Certificates of Origin (CG–XXXX) in accordance with this subpart shall change the company name or address without notifying the U.S. Coast Guard Recreational Boating Product Assurance Branch, 2100 Second Street SW., Washington, DC 20593–0001 in writing.

Dated: April 28, 1994.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

BILLING CODE 4910–14–M

Appendix A to This Document Sample Forms

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
(CG-XXXX) (1/94)

FORM APPROVED
OMB NO. 2115-XXXX

CERTIFICATE OF ORIGIN FOR A VESSEL

The U.S. manufacturer or importer of a recreational vessel is required to provide a completed Manufacturer's Certificate of Origin for use by the retail purchaser as proof of ownership for vessel registration and numbering purposes.

ABC BOAT COMPANY

2100 Second Street SW
Washington DC 20593-0001

HULL IDENTIFICATION NUMBER

U	S	A	B	C												

DATE

MODEL NAME AND NUMERICAL DESIGNATION

LENGTH:

FT. ☐☐ IN. ☐☐

BEAM:

FT. ☐☐ IN. ☐☐

TYPE OF USE

☐ RECREATIONAL ☐ COMMERCIAL

I, the undersigned authorized representative of the manufacturer or importer named above, certify that the new vessel described above is the property of the said manufacturer or importer and is transferred on the above date to the following dealer or individual:

NAME AND ADDRESS OF DEALER, INDIVIDUAL, ETC.

It is further certified that this was the first transfer of such new vessel and that all information presented herein is true and accurate to the best of my knowledge.

(Signature of Authorized Representative) Position

PLACE OF CONSTRUCTION (Plant Location)

00012345654321

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

Must Be Machine Prepared

FIRST ASSIGNMENT

FOR VALUE RECEIVED, I THE UNDERSIGNED, TRANSFER THE VESSEL DESCRIBED ON THE FACE OF THIS CERTIFICATE TO:

NAME OF
PURCHASER(S): _____

ADDRESS: _____

AND CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THE VESSEL IS NEW AND HAS NOT BEEN REGISTERED IN THIS OR ANY OTHER STATE AND THE VESSEL IS NOT SUBJECT TO ANY SECURITY INTERESTS OTHER THAN THOSE DISCLOSED HEREIN AND WARRANT TITLE TO THE VESSEL

_____

_____

Amount of Lien Date Of Lien In Favor Of

Address: _____

By: _____

TRANSFEROR (Firm Name) SIGNATURE POSITION

Being duly sworn under oath says that the statements set forth are true and correct. Subscribed and sworn to me before this _____ day of _____ 19 ____

_____ Notary Public Notary Seal

USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION

SECOND ASSIGNMENT

FOR VALUE RECEIVED, I THE UNDERSIGNED, TRANSFER THE VESSEL DESCRIBED ON THE FACE OF THIS CERTIFICATE TO:

NAME OF
PURCHASER(S): _____

ADDRESS: _____

AND CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THE VESSEL IS NEW AND HAS NOT BEEN REGISTERED IN THIS OR ANY OTHER STATE AND THE VESSEL IS NOT SUBJECT TO ANY SECURITY INTERESTS OTHER THAN THOSE DISCLOSED HEREIN AND WARRANT TITLE TO THE VESSEL

_____

_____

Amount of Lien Date Of Lien In Favor Of

Address: _____

By: _____

TRANSFEROR (Firm Name) SIGNATURE POSITION

Being duly sworn under oath says that the statements set forth are true and correct. Subscribed and sworn to me before this _____ day of _____ 19 ____

_____ Notary Public Notary Seal

USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION

[FR Doc. 94-10853 Filed 5-5-94; 8:45 am]
BILLING CODE 4910-14-C

National Highway Traffic Safety Administration

49 CFR 571

[Docket No. 94–31; Notice 01]

RIN 2127–AF29

Federal Motor Vehicle Safety Standards; Fuel System Integrity of Compressed Natural Gas Vehicles Over 4536 Kilograms Gross Vehicle Weight Rating

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

ACTION: Request for comments.

SUMMARY: The purpose of this notice is to assess the need to regulate the fuel system integrity of vehicles with a gross vehicle weight rating (GVWR) of greater than 4536 kilograms that are fueled with compressed natural gas (CNG). Comments are requested regarding the need for fuel system integrity standards for CNG-powered vehicles with a GVWR of greater than 4536 kilograms, including transit buses, intercity buses, trucks, and other heavy vehicles.

DATES: Comments must be received by July 5, 1994.

ADDRESSES: Comments should refer to the docket and notice numbers set forth above and be submitted to the Docket Section, NHTSA, room 5109, 400 Seventh Street SW., Washington, DC 20590 (Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Gary Woodford, General Engineer, Special Projects Staff, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4931.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) anticipates a significant increase in the number of alternatively fueled motor vehicles in the United States. This expectation stems from initiatives by the President, Congress, State and local governments, and private interest, since these vehicles will help reduce air pollution and conserve petroleum fuel. NHTSA has undertaken a comprehensive program to address the safe performance of these vehicles on the road and in crashes. Further, because the Clean Air Act specifies that vehicle fleets in non-attainment areas (mostly large cities) must be converted to clean burning fuels, many city transit bus fleets are being converted to run on fuels such as compressed natural gas (CNG). As NHTSA has become more aware of these fleets of heavy vehicles powered by CNG, the agency believes that their safe performance merits examination.

On January 21, 1993, NHTSA published a notice of proposed rulemaking (NPRM) which proposed requirements for CNG fuel system and fuel container integrity (58 FR 5323). The vehicle fuel system requirements were proposed to apply to vehicles with a GVWR of 4536 kilograms or less, and all school buses. The container requirements were proposed to apply to CNG fuel containers for any vehicle.

On April 25, 1994, the agency published a final rule (59 FR 19648), which addresses the fuel system integrity of CNG vehicles. The new regulation, Federal Motor Vehicle Safety Standard (FMVSS) No. 303, applies to all passenger cars, trucks, buses, and multipurpose passenger vehicles with a GVWR of 4536 kilograms of less, and all school buses regardless of weight. FMVSS No. 303 sets allowable leakage limits for the vehicle fuel system after a barrier crash test. With regard to the fuel container requirements, NHTSA anticipates issuing another final rule that will specify performance requirements addressing the strength, durability, and pressure relief of CNG fuel containers. In addition, as a result of public comments on the January 1993 NPRM, the agency anticipates issuing a supplemental notice of proposed rulemaking for CNG fuel containers addressing internal corrosion, brittle fracture under low temperatures, environmental degradation, external damage, and fragmentation.

The January 1993 NPRM briefly discussed the issue of whether vehicles with a GVWR of over 4536 kilograms, other than school buses, should be included in the vehicle requirements. The agency believes that an opportunity should be provided for a more focused view on this issue. This request for comment will serve that purpose.

A total of 58 comments were received on the NPRM, of which six addressed CNG safety for vehicles over 4536 kilograms GVWR other than school buses. Four of the six commenters, Navistar, Chrysler, Flexible, and Amoco, believed that federal safety requirements should not apply to CNG-powered heavy vehicles. The main reason given by the commenters was that the vehicle applicability of the CNG fuel system integrity standard should be the same as that for NHTSA's liquid fuel system integrity standard, FMVSS No. 301, "Fuel System Integrity." The latter only applies to vehicles with a GVWR of 4536 kilograms or less, and school buses. However, two commenters believed that the requirements should apply to heavier vehicles. The Transportation Manufacturing Company, a bus manufacturer, believed that heavy vehicles should have requirements that are comparable to those for smaller vehicles. No rationale was provided. The Washington Superintendent for Public Instruction (WSPI), also believed that these vehicles should be regulated. WSPI stated that the agency should consider including these vehicles in the proposed rule, but did not offer a rationale.

Because of the lack of accident data indicating a fuel system integrity problem for CNG-powered heavy vehicles, and the lack of rationale from the two supporters, the agency concluded that FMVSS No. 303 should not apply to heavy vehicles. However, because of the increasing number of CNG-powered transit buses, the agency seeks information by which to consider whether federal safety action is desirable, for both transit buses and or other heavy vehicles. It may be that action is merited with regard to buses, which carry many occupants and can have high traffic exposure, but not other heavy vehicles with only one or two occupants.

Current and Proposed Regulations

As part of NHTSA's inquiry in this notice, the agency seeks comments on the desirability of actions which would be harmonized with those of Canada.

United States Requirements

FMVSS No. 303 requires that school buses, regardless of weight, must comply with a moving contoured barrier crash test. In this test, a barrier traveling longitudinally at 48 kilometers per hour impacts the bus at any point and angle. During and after the impact, the fuel pressure drop must not exceed a specified limit. The final rule contains no requirements for heavy vehicles other than school buses with a GVWR of over 4536 kilograms.

Canada's Existing and Proposed Requirements

Currently, Canadian motor vehicle safety standard No. 301.2, "CNG Fuel System Integrity," requires that all vehicles with a GVWR of more than 4536 kilograms be subjected to a 48 kilometers per hour contoured barrier crash test. This is similar to the test NHTSA requires for school buses in FMVSS No. 303. On December 11, 1993, Canada proposed an amendment to its standard. Under the amendment, the current requirement would apply to vehicles with containers mounted lower than 183 centimeters from the ground.

If the fuel containers are mounted 183 centimeters or more above the ground, the vehicle would need to meet the requirements of the National Standard of Canada CAN/CGA–B149.4–M91 Natural Gas for Vehicles Installation Code, dated January 1991 (copy available in the docket). This is a design standard which specifies in great detail the method for building a CNG vehicle.

Request for Comments

NHTSA seeks two types of information in this notice. First, the agency seeks information regarding the current and projected population size and vehicle type (transit bus, intercity bus, heavy truck, or other heavy vehicle) for CNG vehicles with a GVWR of over 4536 kilograms. Second, NHTSA seeks information about the potential safety problems of these vehicles. When appropriate, please comment by vehicle type, i.e., transit bus, intercity bus, heavy truck, or other type of heavy vehicle.

CNG Heavy Vehicle Population: Current and Projected

1. The agency requests information on how many CNG transit buses, intercity buses, heavy trucks, and other heavy vehicles of over 4536 kilograms GVWR are in service or are planned to be placed in service in the United States. How many of these vehicles are made by an original equipment manufacturer (OEM) and how many are aftermarket vehicles that are converted from a vehicle powered by gasoline, diesel, or other fuel?

2. How many entities manufacture heavy CNG vehicles by type, i.e., transit bus, intercity bus, heavy truck, or other type of heavy vehicle? How many convert them from other fuels, by type, if appropriate? What specifications are used for converting these vehicles? Do voluntary industry guidelines exist? Please describe and provide the guidelines or citations.

3. How long have heavy CNG vehicles (by type) been used in this country? What are the projections for their future use, in terms of numbers and in type of usage?

4. What are the various locations for mounting CNG containers on heavy vehicles? Which are more common; less common? Why? At what height are the CNG containers mounted? Are they typically protected by shielding or cages? What factors go into deciding where to mount the container on the vehicle? How many CNG containers are typically placed on a heavy vehicle, and how much do the containers weigh? Does the number of containers vary, depending upon the type of vehicle, i.e., transit bus, intercity bus, heavy truck, or other type of heavy vehicle?

CNG Heavy Vehicle Safety Problems

The agency foresees four potential areas for examination with regard to these vehicles:

—Performance in Crashes
—Venting
—Leakage Detection
—Refueling

Performance in Crashes

The agency is interested in obtaining specific information about crashes involving these heavy vehicles. General information about the number of accidents as well as information regarding specific issues such as container detachment would be helpful.

5. Have there been any CNG fuel container or fuel system failures in these types of vehicles? If so, describe the failure, e.g., sequence of events, what failed, and how it failed. If the failure occurred as the result of a crash, was another vehicle involved? Please describe the other vehicle.

6. Was the vehicle a transit bus, intercity bus, heavy truck, or some other type of heavy vehicle? Was it an OEM vehicle or a conversion? Who was the manufacturer of the vehicle? If it was a conversion, who did the conversion? Was the conversion done before or after the vehicle's first consumer purchase?

7. Please identify and describe any situations where a container became detached in a crash situation? Did the container leak? If crashes occurred, were they reported to a policy agency, hazardous materials agency, or other State/local agency?

8. Should the agency specify how the fuel containers should be attached to the vehicles? Should a requirements apply to all vehicles or just for those with containers mounted greater than 183 centimeters above the ground (such as referenced in the Canadian proposal)? Are CNG tanks rigidly mounted or are they mounted so as to be isolated from shock in a crash, permitting some allowable design movement? What is the typical orientation of the CNG tank with respect to the longitudinal axis of the vehicle? Does a CNG tank's mounting orientation and method affect its useful life?

9. Were there any injuries to the vehicle occupants, pedestrians, emergency personnel, or other individuals? What was the type and seriousness of the injury?

10. What type (steel, aluminum, fiberglass wrap, carbon fiber wrap, hoop wrap, full wrap, all composite, or other) was the fuel container? What were the dimensions of the container? What was the service pressure of the container? Who manufactured the container? How long had it been in service? To which design specification or standard were the tanks built?

11. Should any Federal standard include a labeling requirement to address the periodic reinspection of fuel systems on alternatively fueled vehicles? Should States establish guidelines to address the periodic reinspection or recertification of such fuel systems? Should these schedules be set at specified time or mileage intervals? After a vehicle is involved in an accident?

12. Should CNG heavy vehicles, which are not school buses, be crash tested for fuel system integrity in the same way as heavy school buses under FMVSS No. 303, i.e., a contoured barrier traveling at 48 kilometers per hour striking the test vehicle at any point and angle? If so, which types of CNG heavy vehicle should be included, i.e., transit bus, intercity bus, heavy truck, or other type? Are there other tests or guidelines which would be more appropriate to assure the fuel system integrity of such vehicles? If so, what are they?

Venting

Because of the size of these vehicles, there may be large enclosed areas in which natural gas could accumulate if there is a slow leak in the CNG fuel system.

13. Are there instances where gas accumulated? Did any of them result in explosions?

14. Should venting of the container away from possible areas of accumulation and potential ignition sources be required to address leakage accumulation?

15. What experimental or observed data are available regarding the dispersion behavior that results from a CNG fuel system leak? Will the gas rise or remain near the ground? If the gas remains near the ground, how long will it remain there?

Leakage Detection and Warning

If there is a leak in the fuel system, there would be little or no visible evidence of the gas accumulation. If persons nearby could not smell the gas, it could accumulate in an area near them without notice, which would increase the potential for an explosion.

16. Are there instances where CNG leaked out of a vehicle fuel system and caused a safety problem before the natural gas was detected? Describe how the situation occurred.

17. Should a leakage detection/warning system be required in vehicles with a GVWR of over 4536 kilograms to

detect leakage of CNG as well as to warn persons nearby of the potential hazard? What type of system? Is it commercially available? What would be the cost? Would the leakage detection/warning system, including its power source, become a potential ignition sources when activated?

Refueling

NHTSA seeks information on potential safety hazards associated with the refueling of heavy CNG vehicles.

18. Are manufacturers or fleet operators aware of safety hazards or accidents that have occurred during refueling operations? If so, please provide information on them.

19. What items are included in current guidelines or procedures for CNG refueling, such as the need for grounding straps, operator protective clothing, etc.?

20. Is a small amount of CNG normally released during connecting/disconnecting of the refueling equipment? If so, how much? Are devices, such as excess flow valves, used in refueling equipment to prevent excess CNG leakage in the event of a refueling line rupture? To what extent are such devices used?

21. What standards or guidelines currently exist for refueling couplers and related equipment?

Submission of Comments

The agency invites written comments from all interested parties. It is requested that 10 copies of each written comment be submitted.

No comment may exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to a comment without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit specified information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation, 49 CFR part 512.

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 both before and after the closing date.

To the extent possible, comments filed after the closing date will also be considered. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on May 2, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–10897 Filed 5–5–94; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 301, 671, 672, 675, 676, and 677

[Docket No. 940412–4112; I.D. 033194E]

RIN 0648–AD80

North Pacific Fisheries Research Plan

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

ACTION: Proposed rule and notice of hearings.

SUMMARY: NMFS issues a proposed rule to implement the North Pacific Fisheries Research Plan (Research Plan) for the Gulf of Alaska (GOA) groundfish fishery, Bering Sea and Aleutian Islands management area (BSAI) groundfish fishery, Bering Sea and Aleutian Islands area king and Tanner crab fisheries, and Pacific halibut fishery in convention waters off Alaska. The Research Plan would provide an industry-funded observer program and promote management, conservation, and scientific understanding of groundfish, halibut, and crab resources off Alaska.

DATES: Comments on this proposed rule must be received by July 5, 1994.

Public hearings on the proposed Research Plan will be held as follows:

1. June 7, 1994, 7:00 p.m., Anchorage, Alaska.
2. June 15, 1994, 10:30 a.m., Seattle, Washington.
3. June 16, 1994, 10:00 a.m., Portland, Oregon.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Individual copies of the proposed Research Plan and the environmental assessment/regulatory impact review (EA/RIR) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

Public hearings will be held at the following locations:

1. Anchorage—Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, Alaska (907–272–7411)
2. Seattle—Alaska Fisheries Science Center Auditorium, 7600 Sand Point Way Northeast, Building 9, Seattle, Washington (206–526–4197)
3. Portland—Red Lion Inn, 909 North Hayden Island Dr., Jantzen Beach, Portland, Oregon (503–283–4466).

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, at 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic groundfish fisheries of the BSAI and GOA in the exclusive economic zone (EEZ) are managed under the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the FMP for Groundfish of the GOA. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) and are implemented for the U.S. fishery by regulations at 50 CFR parts 620, 672, and 675. The domestic fishery for Pacific halibut off Alaska is managed by the International Pacific Halibut Commission (IPHC), as provided by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773–773k), with implementing regulations at 50 CFR part 301. Regulations implementing individual fishing quotas (IFQs) for the domestic groundfish and halibut fisheries off Alaska are at 50 CFR part 676. The king and Tanner crab fisheries of the Bering Sea and Aleutian Islands area are managed under the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands. This FMP delegates management of the crab resources in the Bering Sea and Aleutian Islands area to

the State of Alaska (State) with Federal oversight. Regulations necessary to carry out the crab FMP appear at 50 CFR part 671.

Section 313 of the Magnuson Act, as amended by section 404 of the High Seas Driftnet Fisheries Enforcement Act, Pub. L. 102–582, authorizes the Council to prepare, in consultation with the Secretary of Commerce (Secretary), a Research Plan for all fisheries under the Council's jurisdiction except salmon fisheries. The proposed Research Plan would require that observers be stationed on certain fishing vessels and U.S. fish processors participating in the BSAI groundfish, GOA groundfish, and Bering Sea and Aleutian Islands area king and Tanner crab fisheries, and it would allow these requirements to be extended to the halibut fishery off Alaska. Observers would be deployed for the purpose of collecting data necessary for the conservation, management, and scientific understanding of fisheries under the Council's authority. The Research Plan also would establish a system of fees to pay for the costs of implementing the Research Plan. The fees would be based on the exvessel value of retained catch in the BSAI and GOA groundfish fisheries, the Bering Sea and Aleutian Islands area king and Tanner crab fisheries, and the Pacific halibut fishery off Alaska (Research Plan fisheries). Future recommendations by the Council to include other fisheries under the Research Plan would require an amendment or amendments to the Research Plan and to the regulations implementing it.

Regulations implementing Amendments 18 and 13 to the FMPs for Groundfish of the GOA and the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, respectively (54 FR 50386, December 6, 1989), authorized a data collection program to obtain information necessary for conservation and management of the groundfish fisheries. One of the measures in Amendments 18 and 13 authorized a comprehensive domestic fishery observer program. The Secretary, in consultation with the Council, prepared and implemented an Observer Plan to implement provisions of that program (55 FR 4839, February 12, 1990). The Alaska Board of Fisheries (Board) implemented a Shellfish Onboard Observer Program for the king and Tanner crab fisheries off Alaska in April 1988 (5 AAC 39.645). Currently, no observer program is established for the Pacific halibut fishery in convention waters off Alaska.

Two problems with the current Federal and State observer programs have been identified. First, the costs of observer coverage are not borne by all fishery participants. Under the current Federal observer program, some groundfish operations are required to pay for 100 percent observer coverage, others are required to pay for 30 percent coverage, and still other operations that benefit from the observer program pay none of the cost. The last group includes some groundfish and all halibut operations, because they have no observer coverage requirements. State king and Tanner crab regulations require observer coverage for all vessels that process king or Tanner crab in waters off Alaska, but mandate no observer coverage for crab catcher vessels or shoreside processors.

Second, the current method of paying for observers under the Federal and State observer programs limits NMFS and State control over the observer programs and impedes the agencies' ability to manage the programs effectively. Observer contractors are not solely responsible to NMFS or to the State for the quality of their work performance; sometimes they have conflicting responsibilities to their clients, to whom they are providing observers, and to NMFS or to the State. The owners and operators of vessels and processing facilities now are responsible for making arrangements with an observer contractor of their choice to meet observer requirements and for paying the costs of observers directly to that contractor. This direct business relationship, and the ability of an owner or operator to select among the group of contractors, mean that the contractors and, indirectly, the observers, work for the operations they are observing. This relationship could provide a means for an operation to reward or penalize contractors and their observers and thus negatively influence the work performance of the observers and quality of the data collected. This appearance of a conflict of interest could reduce the credibility of observer data.

To resolve these problems, the Council initiated development of the Research Plan. A draft EA/RIR for the Research Plan was initially reviewed and approved for public distribution and comment by the Council and its advisory bodies at their January 15–17, 1991, meetings. After reviewing written comments and advice from its advisory bodies, and hearing public testimony at its meetings of April 23–26, 1991, the Council further refined the Research Plan. A revised EA/RIR was reviewed and approved for public distribution and comment by the Council and its advisory bodies at their April 20–26, 1992, meetings. After reviewing written comments, obtaining further advice from its advisory bodies, and hearing public testimony at its June 23–28, 1992, meeting, the Council adopted the Research Plan and recommended that it be submitted to the Secretary for review. The EA/RIR was updated in December 1993 to reflect newly available information. The Council approved the Research Plan as described in this proposed rule at its December 1993 meeting.

Description of the Proposed Research Plan

Objectives

1. Provide a framework for an observer program for the Alaska groundfish fisheries and the Pacific halibut fishery to accommodate inseason management and stock assessment needs, and to provide accurate, real-time data of sufficient quality to implement an individual vessel incentive program developed to meet specified management objectives of the Council;

2. Provide a framework for an observer program for Bering Sea and Aleutian Islands area king and Tanner crab fisheries to accommodate inseason management needs, monitor industry compliance with Federal and State regulations, and collect biological and management data necessary to achieve the sustained yield of the crab resource without overfishing;

3. Ensure that the groundfish and crab observer programs are efficient and cost effective, that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revisions to the programs, and that such changes are necessary to meet fishery management needs; and

4. Provide for cooperation and coordination between the groundfish observer program administered by NMFS and the crab observer program administered by the Alaska Department of Fish and Game (ADF&G).

Determination of Research Plan Fees

NMFS would annually establish a Research Plan fee percentage for the upcoming calendar year. As described in this preamble, the fee percentage would be based on standard exvessel prices by species and projections of the following: (1) Retained catches by species (i.e., catch retained by either at-sea or shoreside processors) in all Research Plan fisheries; (2) observer program costs; and (3) the surplus in the North Pacific Fishery Observer Fund (Fund), other sources of funding for the Research Plan, and nonpayments. After

consulting with the Council and State, NMFS would publish the fee percentage and the values of the variables on which it is based in the Federal Register and invite comments. After considering comments received and again consulting with the Council and the State, NMFS would publish final values in the Federal Register.

Standard Exvessel Prices. NMFS would annually establish standard exvessel prices for species harvested in Research Plan fisheries. These prices would be used in estimating the total exvessel value of the Research Plan fisheries for the coming year and in assessing fees. The standard exvessel prices would be based on: (1) Exvessel price information for the most recent 12-month period for which data are available, (2) factors that are expected to change exvessel prices in the upcoming calendar year, and (3) any other relevant information that may affect expected exvessel prices during the upcoming calendar year.

Retained Catch. NMFS would project retained catch, by species, for the Research Plan fisheries annually, using the best available information concerning expected catches and discards.

Total Exvessel Value. NMFS would annually calculate the total exvessel value of retained catches for Research Plan fisheries as the sum of the products of the standard exvessel prices and projected retained catches, for all Research Plan species.

Observer Program Costs. NMFS and ADF&G would each prepare an annual budget that identifies expected recoverable Research Plan costs for the upcoming calendar year. Recoverable costs identified in each budget would include: (1) Costs for observer training, certification, briefing, and debriefing; (2) costs for stationing observers, including travel, salaries, benefits, and insurance; (3) costs for data collection, transmission, input, processing, and management; and (4) contract services and general program operational costs, excluding overhead. The estimated budget would be based on anticipated observer coverage and the anticipated costs directly incurred in carrying out the Research Plan. The observer program costs also would include the costs associated with a risk-sharing pool to provide comprehensive insurance coverage for vessels and owners if such an insurance program is established under section 313 of the Magnuson Act (see Risk-sharing Pool, in this preamble.)

Surplus Funds, Other Sources of Funding, and Fee Nonpayment. Annually, NMFS would project each of the following: (1) The surplus that would be in the Fund at the end of the current calendar year, (2) the funds that would be available from other sources for use in funding the Research Plan during the upcoming calendar year, and (3) the nonpayment rate on fees assessed under the Research Plan during the upcoming calendar year.

Calculation of the Fee Percentage. Under the Magnuson Act, the fee percentage established to pay for the costs of implementing the Research Plan may not exceed 2 percent of the exvessel value of fish harvested under the authority of the Council (except salmon), including shellfish and the Northern Pacific halibut fishery. Annually, the fee percentage for the upcoming calendar year will be set equal to the lesser of 2 percent of the exvessel value of retained catch in the Research Plan fisheries or the fee percentage calculated using the equation described above and set out at § 677.11(a)(3).

If the fee percentage calculated using this formula is greater than 2 percent, there would be a funding shortfall due to the 2 percent limit in the Magnuson Act. This would require a reevaluation of the levels of coverage that would be required and funded. Available funds would be utilized to address the Research Plan objectives in the following priority: (1) Status of stock assessments (i.e., collection of data on total catch, species composition, size, sex, and age); (2) inseason management; (3) bycatch monitoring; and (4) vessel incentive programs and regulatory compliance.

Fee Assessments

Processors would be responsible for collecting all fee assessments and for paying them bimonthly (i.e., every 2 months). Section 313 of the Magnuson Act stipulates that fees shall be assessed against all fishing vessels and U.S. fish processors participating in Research Plan fisheries under the jurisdiction of the Council, including those not required to have observers. Fee assessments would not apply to fish, except halibut, caught in the territorial sea (0–3 miles), or to any fish caught in internal waters of the State. Recordkeeping and reporting requirement changes that would require processors to indicate if fish are caught in Federal or State waters will be developed prior to implementation of the fee collection system.

Catcher vessels would be expected to pay half of the fee liabilities on their retained catches to the processor(s) responsible for making the bimonthly fee assessment payments to NMFS. NMFS would calculate bimonthly fee assessments by multiplying the fee percentage times the standard exvessel price times the round weight or round-weight equivalent of all retained catches, by species, in Research Plan fisheries. For example, if the fee percentage for Research Plan fisheries were 1.00 percent, and the standard exvessel price of pollock were $0.09/lb ($0.20/kg), a retained catch of 500,000 lbs (227,727 kg) of pollock would result in a fee assessment due from the processor of:

0.0100×$0.09/lb.×500,000 lbs=$450.00.

Retained catch is defined as the catch retained by either at-sea or shoreside processors. The round weight of fish delivered to shoreside processors would be determined from scale weights. Standard product recovery rates would be used to derive round-weight equivalents when other than whole fish is delivered to shoreside processors. Standard product recovery rates also would be used to calculate round-weight equivalents of groundfish and halibut harvested by or delivered to at-sea processors. For crab at-sea processors, scale weights of sample catches would be used to calculate weight of retained catch. NMFS is developing a regulatory amendment to establish standard product recovery rates that would be used throughout the industry to calculate round-weight equivalents of retained catch. Assuming Secretarial approval, NMFS anticipates that standard product recovery rates will be effective by 1995. If a more reliable system for determining total weights is implemented in the future, these regulations would be amended accordingly. Public comment is specifically encouraged on this aspect of the proposed Research Plan.

NMFS would obtain values for the weight of retained catch to be used in calculating fee assessments through existing data reporting systems. Groundfish data would be obtained from Weekly Production Reports or from ADF&G fish tickets for those vessel operators who are not required to submit Weekly Production Reports under Federal regulations but who sell catch directly to consumers. Crab data would be obtained from ADF&G Weekly Processor Reports, fish tickets, or other required reports. Halibut data would be obtained from the IPHC or from Individual Fishing Quota (IFQ) reports, when available.

NMFS would bill processors bimonthly for their fee assessments. The bimonthly periods would be determined on the basis of weekly reporting periods. NMFS is preparing a rule to revise the

definition of a weekly reporting period. Assuming its approval, the 1995 bimonthly periods would be January 1 through February 25; February 26 through April 29; April 30 through July 1; July 2 through September 2; September 3 through October 28; and October 29 through December 31. The Director, Alaska Region, NMFS, (Regional Director) would need to receive payments within 30 days of the date the bill is issued. Interest and administrative charges would be charged for late payments. Payments would be deposited in the Fund within the U.S. Treasury.

A processor would be required to notify the Regional Director, in writing, within 30 days of issuance of the bill, if any billed amount is disputed. The processor would be responsible for paying the undisputed amount of the bill within 30 days of its issuance, and for providing documentation supporting the disputed amount claimed to be under- or over-billed. Within 60 days of the date of issuance of the disputed bill, the Regional Director would review the disputed bill and the documentation provided by the processor, and would notify the processor of his determination. If the Regional Director determines a billing error has occurred, the processor's account would be rectified by credit or subsequent billing. If the Regional Director determines a billing error has not occurred, the balance of the disputed bill would be due within 15 days of issuance of the determination. Interest and administrative charges would be assessed for payments that are not received within 15 days. Processor permits would not be issued until all fee assessments are paid. (See Permit and Recordkeeping Requirements in this preamble).

The Council recommended requiring guarantees equal to the maximum estimated quarterly fee assessment for the upcoming calendar year to secure anticipated fee liabilities, in the form of prepayments, letter of credit, surety bond, or lien on property. NMFS believes that the requirement of such guarantees is premature and could be burdensome to the industry, particularly to smaller enterprises, and costly to administer. Small or marginally profitable enterprises could have difficulty in securing such guarantees. There are irrecoverable costs associated with guarantees such as letters of credit and surety bonds. Some guarantees may be of limited value in ensuring necessary cash flows and achieving the objectives of the Research Plan. Collection could also be difficult to accomplish in a timely and cost-effective manner.

Instead, NMFS is proposing a simplified system to encourage timely fee assessment payments by processors that would consist of: (1) Bimonthly billing, (2) semi-annual processor permitting with a requirement that all Research Plan fee assessments must be current before a permit would be issued, (3) a prohibition against processing landings from Research Plan fisheries without a valid processing permit, and (4) a prohibition against delivery of catch from Research Plan fisheries to a processor not possessing a valid processing permit. This system also has the advantage of greatly simplified reporting and recordkeeping requirements for processors and reduced administrative costs for NMFS. The extent of nonpayment of fee assessments, which is inherent in any fee collection system, would be taken into account in determining the fee percentage rate for the following year. The proposed system is designed to minimize such nonpayment.

First Year of the Research Plan

During the first, or start-up, year of the Research Plan, NMFS would accumulate necessary start-up funds in the Fund. Fees would be assessed against all fishing vessels and U.S. fish processors participating in Research Plan fisheries under the authority of the Council. Processors would be responsible for collecting all fee assessments and for paying them bimonthly. The observer coverage requirements in the Federal Observer Plan and existing State Bering Sea and Aleutian Islands area king and Tanner crab regulations (5 AAC 39.645) would remain in effect during the start-up year.

During the first year of the Research Plan (1995), all processors and vessels participating in Research Plan fisheries would pay the full fee assessment. Vessel operators and processors that currently are required to carry observers under the Federal Observer Plan and under State regulations would continue to do so during the first year of the Research Plan. NMFS would issue rebates to those who paid directly for required observer coverage during the first year of the Research Plan. The rebate per standard observer day would equal either the actual payment to an observer contractor per standard observer day or the standardized cost of a standard observer day, whichever is less. A standard observer day is defined as all or part of a 24-hour period that begins at 0001 hours Alaska local time (A.l.t.) and ends at 2400 A.l.t., during which an observer is stationed on a vessel or at a shoreside facility for purposes of complying with observer coverage requirements set forth in the proposed rule at § 677.10(a). A standard observer day cannot be attributed to more than one vessel or shoreside facility.

The standardized cost of a standard observer day would be based on the estimate(s) of the cost per observer day used to calculate both the total cost of the Research Plan and the fee percentage during 1995. Proposed standardized cost(s) will be published in the **Federal Register** for public review and comment as part of the annual Research Plan specification process set forth at § 677.11 of the proposed rule. At this time, NMFS anticipates that standardized cost(s) could range between $170 and $265 per day, depending on whether 100 percent or 30 percent observer coverage is obtained.

The rebates issued for vessel or processor observer coverage may exceed Research Plan fee payments. However, issuance of a rebate to a processor would be dependent on the processor being current with respect to submitting its fee payments. The rebates would be based on information provided to NMFS by observer contractors on an Observer Coverage Rebate Application (Form FPP–2). This information would include the number of standard observer days paid for by each vessel or processor and the amount paid for those observer days. The required information would be submitted by each observer contractor within 15 days after the end of each calendar month in which it received payments for providing observers. Initial rebates would not be issued before mid-year, to allow for the collection of sufficient funding for the rebate program. Subsequent rebates for 1995 observer coverage would be issued on a more regular basis, e.g. bimonthly.

NMFS believes that a fund equal to approximately two-thirds of the estimated annual cost needed to operate the Research Plan is the minimum amount needed to begin full operation of the Research Plan and to ensure that cash flow is adequate to meet start-up costs. Assuming approval of regulations implementing the Research Plan, full implementation of the observer and fee portions of the Research Plan is anticipated to begin January 1, 1996.

Permit and Recordkeeping Requirements

After the first year of the Research Plan, most of the burden of recordkeeping would rest with processors, who would be responsible for collecting and paying the bimonthly

Research Plan fee assessment when billed by NMFS. During the first year of the Research Plan, additional reporting requirements would be implemented for observer contractors to support the rebate program for direct observer costs. The rebate program and associated recordkeeping requirements are described above.

All processors of Research Plan fisheries would need a Federal Processing Permit. A Federal Processing Permit Application (Form FPP–1) would be required to obtain a processing permit, and would serve to gather information about the processor and its owner. Fishermen who sell their catch directly to the public at a dock, roadside, or elsewhere would be considered processors under the Research Plan. Each processing vessel or shoreside facility would be required to submit a separate permit application, even if several vessels or facilities are owned by the same company.

Permits would be issued for each of the two 6-month periods—January 1 through June 30, and July 1 through December 31. No permit would be issued until the permit application is complete and all fee assessments paid. Processors that have paid their accounts and submitted complete permit applications would be issued a permit within 30 days. Permits would not be issued to those processors not submitting complete applications or to those whose accounts are past due, until their applications are complete and their accounts are paid. Processing fish from Research Plan fisheries without a valid permit, or delivering fish from Research Plan fisheries to a processor not possessing a valid permit, would be prohibited. NMFS would make available to the public a list of those processors holding valid permits to process fish from Research Plan fisheries.

Observer Coverage

During the first year of the Research Plan (1995), observer coverage levels in the groundfish fishery would be as currently required by the Federal Observer Plan. All king and Tanner crab catcher/processors and mothership processors in the Bering Sea and Aleutian Islands area would continue to carry observers under the State Shellfish Onboard Observer Program. Observer coverage would not be required for the halibut fishery.

Starting with the second year of the Research Plan (1996), NMFS would annually determine the level of observer coverage necessary to achieve the objectives of the Research Plan. NMFS would consider the amount of available funds, as well as the objectives of the program, in determining the appropriate observer coverage levels. NMFS would annually present an analysis of observer coverage, including criteria for selection of vessels to carry observers if coverage is less than 100 percent, to the Council, and to the State in the case of the Bering Sea and Aleutian Islands area king and Tanner crab fisheries. NMFS would then publish the proposed levels of coverage in the **Federal Register** and invite comments. State costs for observer coverage in the Bering Sea and Aleutian Islands area king and Tanner crab fisheries allowable under the Magnuson Act would be paid from fees collected from all Research Plan fisheries. After considering comments received and again consulting with the Council, and with the State in the case of the Bering Sea and Aleutian Islands area king and Tanner crab fisheries, NMFS would publish the final levels of observer coverage for the upcoming year in the **Federal Register**.

Inseason Changes in Observer Coverage

The Regional Director may increase or decrease the observer coverage requirements for the groundfish, halibut, and crab observer programs at any time during the effective period of the Research Plan to improve the accuracy, reliability, and availability of observer data, and to ensure solvency of the observer program, so long as the conditions set forth in section 313 of the Magnuson Act are met, and based on one or more of the following findings:

1. A significant change in fishing methods, times, or areas for a specific fishery or fleet component has occurred, or is likely to occur.

2. A significant change in catch or bycatch composition for a specific fishery or fleet component has occurred, or is likely to occur.

3. Unanticipated shortfalls in the North Pacific Fishery Observer Fund require decreased observer coverage to maintain solvency of the observer programs.

4. An increase in observer coverage is necessary to ensure or improve data availability or quality in order to meet specific fishery management objectives.

Any decrease in observer coverage due to unanticipated funding shortfalls must be consistent with the following priorities: (a) Status of stock assessments (i.e., collection of data on total catch, species composition, size, sex, and age); (b) inseason management; (c) bycatch monitoring; and (d) vessel incentive programs and regulatory compliance. Any increased costs must be commensurate with the quality and usefulness of the data to be derived from any revised program and necessary to meet fishery management needs.

The Regional Director would consult with the Commissioner of ADF&G prior to making inseason changes in observer coverage level for the crab observer program. NMFS would publish changes in observer coverage requirements in the **Federal Register**, with the reasons for the changes and any special instructions to vessels required to carry observers, at least 10 calendar days prior to their implementation.

Groundfish and Halibut Observers

Groundfish and halibut observers would be either employees of NMFS or employees of NMFS observer contractors. Observer contracts would be subject to a competitive bid process and would comply with Federal and agency procurement regulations. A minimum of three contractors would be used in accordance with the procurement regulations, if cost effective, and if three or more bidders are qualified.

Observers would possess the education and specific training as specified in the contracts issued by the Federal Government to provide groundfish or halibut observers. The observers' duties are described in detail in the NMFS observer manual, which is updated as necessary and is available from the NMFS Observer Program, Alaska Fisheries Science Center, 7600 Sand Point Way N.E., BIN C15700, Building 4, Seattle, WA 98115. Observer duties may include the collection of data on catch, effort, bycatch, and discards of finfish and shellfish, including prohibited species catches, to facilitate inseason management. Observers may collect information on gear, processing, or other fishing information; biological samples to determine species, length, weight, age, sex composition of catch, and predator-prey interactions; or any other information needed to manage the fisheries. They may collect data on marine mammals, seabirds, and other species as appropriate. Information obtained from observers would also be used to monitor compliance with fishing and related regulations.

The Regional Director would review fishery monitoring programs and report to the Council on methods to improve data collection and sampling techniques and to provide for real-time data transmission from the groundfish and halibut fleet, including daily reporting and other measures as appropriate to improve the accuracy and efficiency of fishery monitoring programs.

A final rule was published on April 29, 1994, (59 FR 22133) that authorizes

NMFS to disclose specified observer data on prohibited species bycatch or bycatch rates. This authority would continue under the Research Plan and is included in this proposed rule (§ 677.10(f)).

Bering Sea and Aleutian Islands Area King and Tanner Crab Observers

Crab observers would either be employees of ADF&G, or employees of NMFS observer contractors. The observers would be required to possess the education and specific training requirements as specified in the contracts issued by the Federal Government to provide crab observers. The observers' duties are described in detail in the ADF&G observer manual, which will be updated as necessary. The ADF&G observer manual is available from ADF&G, Box 308, Dutch Harbor, AK 99692–0308. Crab observer duties may include the collection of data on catch, effort, bycatch, and discards of finfish and shellfish to facilitate inseason management. Observers may also collect biological samples to determine information such as species, length, weight, age, sex composition of catch, predator-prey interactions, or any other biological information needed to manage the fisheries. They may also collect data on marine mammals, seabirds, and other species as appropriate. Crab observers also provide an effective means to ensure management compliance.

The State would review its fishery monitoring and data transmission programs in conjunction with NMFS, to coordinate methods to improve data collection and sampling techniques, provide for real-time data transmission from the fleet, including daily reporting, improve the accuracy and efficiency of fishery monitoring programs, and improve coordination between State and Federal agencies. Initially, data collection, transmission, and input programs would be the same as specified under existing State regulations and guidelines to facilitate inseason management.

Notification of Observer Contractors by Processors and Operators of Vessels Required To Carry Observers

Processors and operators of vessels required to carry observers under the Research Plan would be responsible for meeting their observer coverage requirements. To ensure that an observer will be available, processors and vessel operators would be required to notify the appropriate agency or observer contractor, as identified by NMFS, not less than 60 days prior to their need for an observer. This notification must be in writing or facsimile copy. A second notification to the appropriate observer contractor, in writing, facsimile copy, or by telephone, must be made not less than 10 days prior to the need for an observer, to make final arrangements for observer deployment. Proposed ports from which observers may embark/disembark are Akutan, Atka, Beaver Inlet, Chignik, Cordova, Craig, Dutch Harbor, Homer, Juneau, Ketchikan, Kenai, King Cove, Kodiak, Petersburg, Sand Point, Seward, Sitka, St. George, St. Paul, Valdez, Wrangell, and Yakutat. Ports were selected using the following criteria: (1) Previous selection by observer contractors, (2) accessibility and transportation costs, and (3) availability of overnight accommodations. Public comments on this list of ports is specifically encouraged. This list would be reviewed annually by NMFS, in consultation with the Council and the State, during the annual budget review process.

During the first year of the Research Plan (1995), observer coverage requirements would be as described in § 677.10(a). NMFS would publish subsequent observer coverage requirements, along with the names of the observer contractors, information for contacting contractors, and a list of embarkment/disembarkment ports for observers, annually in the **Federal Register**, prior to the beginning of the calendar year to which the coverage requirements apply (see Observer Coverage in this preamble).

Coordination Between the Federal Groundfish Observer Program and the State King and Tanner Crab Observer Program Under the Research Plan

Under authority of the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands, the State king and Tanner crab observer program for the Bering Sea and Aleutian Islands area was designed by the Board and is administered by ADF&G.

NMFS and ADF&G would form a work group to maximize efficiency in administration and implementation of the groundfish, halibut, and king and Tanner crab observer programs. The University of Alaska, as an observer training entity, would be a member of this work group when required to help in the development of observer training and debriefing procedures. The work group would review costs and identify possible cost-saving measures, including the use of contractors to perform some or all of the duties under the Research Plan, other than briefing or debriefing. The work group also would review the costs and benefits of training observers in Alaska or elsewhere.

The work group would address items including: (1) Development of consistent, cost-effective, and compatible observer training and debriefing procedures; (2) development of a consistent data collection, transmission, and processing system, including a single database available to both agencies on a real-time basis; and (3) identification of costs that are appropriate for reimbursement to the State pursuant to the Magnuson Act. NMFS and ADF&G would annually provide to the Council a report detailing steps taken to improve overall coordination between the two observer programs and to improve administrative efficiency.

Observer Oversight Committee

The Council Chairman would establish an Observer Oversight Committee (Committee) to provide advice to the Council, the Board, the Commissioner of ADF&G, and the Regional Director on general provisions of the observer and fee portions of the Research Plan. NMFS, with the assistance of ADF&G, would annually provide Research Plan reports and budget documents to the Committee. The Committee would consist of industry representatives from the following groups: Factory trawler, catcher trawler, shoreside processor, crab catcher vessel, freezer longliner, non-freezer longliner, crab catcher-processor, vessels under 60 ft (18.3 m) in length overall, observers, observer contractors, and an independent observer training representative. The Committee would meet with NMFS and ADF&G staff within the annual cycle of the Research Plan to review the reports and budgets and provide input to the Council on fee levels and observer coverage needs. The Committee would not have oversight of the daily operations of the Federal and State observer programs.

Risk-sharing Pool

Under section 313 of the Magnuson Act, the Secretary will review the feasibility of establishing a risk-sharing pool to provide comprehensive commercial insurance coverage for vessels and owners, and the availability of such insurance for vessels and owners, against liability from civil suits by observers. If the Secretary determines that a risk-sharing pool is feasible, any implementing regulations would be codified at subpart B of 50 CFR part 677.

Public Comment and Hearings

Public comments on the proposed Research Plan and its implementing regulations are invited for 60 days. During this comment period, the Secretary will conduct public hearings, as required by the Magnuson Act, in Alaska, Oregon, and Washington for the purpose of receiving public comments on the proposed regulations (see **DATES** and **ADDRESSES** for dates and locations). NMFS will consider public comments received in preparing the final rule implementing the Research Plan.

Classification

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Although it would affect all firms in the Research Plan fisheries, it would not decrease revenues by more than 2 percent. Since costs are approximately equal to revenues in the Research Plan fisheries, costs are not expected to go up by more than 2 percent. Thus, while a substantial number of small entities would be affected, the effect is not expected to be economically significant.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. These collections of information have been submitted to the Office of Management and Budget for approval. Public reporting burden for each year of this collection is estimated to average 0.5 hours per response for completing the semi-annual Federal Processing Permit Application, 0.25 hours per response for notifying contractors of needs for observers, and 1.0 hour per response to provide information to document claims of disputed bills. For the first year of the Research Plan, completion of Observer Coverage Rebate Application forms is estimated to average 0.16 hours per response. All reporting burden estimates include 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 these burden estimates, or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 301, 671, 672, 675, 676, and 677

Fisheries, Reporting and recordkeeping requirements.

Dated: April 29, 1994.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, title 50 CFR is proposed to be amended as follows:

PART 301—PACIFIC HALIBUT FISHERIES

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

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

2. Section 301.23 is added to read as follows:

§ 301.23 North Pacific Fisheries Research Plan.

Permit requirements, observer requirements, and fee assessments for the Northern Pacific halibut fishery under the North Pacific Fisheries Research Plan are contained in part 677 of this chapter.

PART 671—KING AND TANNER CRAB FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS

3. The authority citation for part 671 continues to read as follows:

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

4. A new § 671.4 is added to read as follows:

§ 671.4 Permits.

All processors of Bering Sea and Aleutian Islands area king and Tanner crab must comply with permit requirements contained in § 677.4 of this chapter.

5. A new § 671.21 is added to read as follows:

§ 671.21 Observer requirements.

Bering Sea and Aleutian Islands area king and Tanner crab observer requirements are contained in part 677 of this chapter.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

6. The authority citation for part 672 continues to read as follows:

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

7. In § 672.4, introductory text of paragraph (b) is redesignated introductory text of paragraph (b)(1); existing paragraphs (b)(1) through (10) are redesignated paragraphs (b)(1) (i) through (x), respectively; and a new paragraph (b)(2) is added to read as follows:

§ 672.4 Permits.

* * * * *

(b) * * *

(2) All processors of Gulf of Alaska groundfish must comply with permit requirements contained in § 677.4 of this chapter, in addition to any applicable requirements of this § 672.4.

* * * * *

8. Section 672.27 is revised to read as follows:

§ 672.27 Observer requirements.

Gulf of Alaska groundfish observer requirements are contained in part 677 of this chapter.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

9. The authority citation for part 675 continues to read as follows:

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

10. In § 675.4, introductory text of paragraph (b) is redesignated introductory text of paragraph (b)(1); existing paragraphs (b)(1) through (10) are redesignated paragraphs (b)(1) (i) through (x), respectively; and a new paragraph (b)(2) is added to read as follows:

§ 675.4 Permits.

* * * * *

(b) * * *

(2) All processors of Bering Sea and Aleutian Islands management area groundfish must comply with permit requirements contained in § 677.4 of this chapter, in addition to any applicable requirements of this § 675.4.

* * * * *

11. Section 675.25 is revised to read as follows:

§ 675.25 Observer requirements.

Bering Sea and Aleutian Islands management area groundfish observer requirements are contained in part 677 of this chapter.

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF ALASKA

12. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

13. In § 676.13, paragraph (a)(1) introductory text is revised to read as follows:

§ 676.13 Permits.

(a) * * *

(1) In addition to the permit and licensing requirements prescribed at 50 CFR parts 301, 672, 675, and 677, all fishing vessels that harvest IFQ halibut or IFQ sablefish must have onboard:

* * * * *

14. In § 676.16, paragraph (r) is added to read as follows:

§ 676.16 General prohibitions.

* * * * *

(r) Any person who is issued a registered buyer permit under § 676.13(a)(2) of this part and who also is required to obtain a Federal processing permit under § 677.4 of this chapter may not transfer or receive sablefish harvested in Federal waters or halibut unless the person possesses a valid permit issued under § 677.4 of this chapter.

15. Part 677 is added to read as follows:

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

Subpart A—General Provisions of the North Pacific Fisheries Research Plan.

Sec.

677.1 Purpose and scope.
677.2 Definitions.
677.3 Relation to other laws.
677.4 Permits.
677.5 Recordkeeping and reporting.
677.6 Research Plan fee.
677.7 General prohibitions.
677.8 Facilitation of enforcement.
677.9 Penalties.
677.10 General requirements.
677.11 Annual Research Plan specifications.
677.12 Compliance.

Subpart B—General Provisions of Risk-Sharing Pool for Insurance Purposes. [Reserved]

Figures—Part 677

Figure 1—Federal Processing Permit Application (Form FPP–1).
Figure 2—Observer Coverage Rebate Application (Form FPP–2).

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

Subpart A—General Provisions of the North Pacific Fisheries Research Plan.

§ 677.1 Purpose and scope.

(a) These regulations implement the North Pacific Fisheries Research Plan developed by the North Pacific Fishery Management Council under the Magnuson Act.

(b) Regulations in this part govern elements of the Research Plan for the following fisheries under the Council's authority: Bering Sea and Aleutian Islands management area groundfish, Gulf of Alaska groundfish, and Bering Sea and Aleutian Islands area king and Tanner crab in the exclusive economic zone; and halibut from convention waters off Alaska.

§ 677.2 Definitions.

In addition to the definitions in the Magnuson Act and in 50 CFR part 620, the terms used in this part have the following meanings:

ADF&G means the Alaska Department of Fish and Game.

At-sea processor means a catcher/processor or mothership processor vessel as defined in this section.

Bering Sea and Aleutian Islands management area is defined at § 675.2 of this chapter.

Bering Sea and Aleutian Islands area is defined at § 671.2 of this chapter.

Bimonthly refers to a time period calculated on the basis of weekly reporting periods as follows: Each bimonthly period begins at 0001 hours A.l.t. of the first Sunday of the first weekly reporting period that has at least 4 days in the associated calendar month and ends at 2400 hours A.l.t., the last Saturday of the last weekly reporting period that has at least 4 days in the next calendar month, with the exception of the first bimonthly period, which begins at 0001 hours, A.l.t., January 1, and the last bimonthly period, which ends at 2400 hours, A.l.t., December 31. Dates of each bimonthly period will be published in the **Federal Register** prior to the beginning of the calendar year for which they apply.

Catcher vessel means a vessel that is used for catching fish.

Catcher/processor means a processor vessel that is used for catching fish and processing that fish.

Commissioner of ADF&G means the principal executive officer of ADF&G.

Convention waters off Alaska means all waters off Alaska in halibut regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E as defined in 50 CFR part 301.

Exvessel price means the price in dollars received by a harvester for fish from Research Plan fisheries. Exvessel price excludes any value added by processing.

Fee percentage means the annually calculated assessment rate, in percent of exvessel value of Research Plan fisheries, used to determine fee assessments under the Research Plan.

Fishing day means a 24-hour period, from 0001 A.l.t. through 2400 A.l.t., in which fishing gear is retrieved and groundfish, as defined at § 672.2 or § 675.2 of this chapter, halibut, or king or Tanner crab are retained. Days during which a vessel only delivers unsorted codends to a processor are not fishing days.

Fishing trip means the time period during which one or more fishing days occur that starts on the day when fishing gear is first deployed and ends on the day the vessel: offloads groundfish, as defined at § 672.2 or § 675.2 of this chapter, halibut, or king or Tanner crab; returns to an Alaskan port; or leaves the EEZ off Alaska and adjacent waters of the State of Alaska.

Groundfish is defined at § 672.2 or § 675.2 of this chapter.

Gulf of Alaska is defined at § 672.2 of this chapter.

Halibut means Pacific halibut (*Hippoglossus stenolepis*).

King crab means red king crab (*Paralithodes camtschatica*), blue king crab (*P. platypus*), brown (or golden) king crab (*Lithodes aequispina*), and scarlet (or deep sea) king crab (*Lithodes couesi*).

Landing is defined at § 672.2 of this chapter.

Length overall is defined at § 672.2 of this chapter.

Mothership processor vessel means a processor vessel that receives and processes fish from other vessels and is not used for catching fish.

Processing or *to process* means the preparation of fish to render it suitable for human consumption, industrial uses, or long term storage, including, but not limited to, cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

Processor means any facility or vessel that processes fish for commercial use or consumption, any person who receives fish from fishermen for commercial purposes, and fishermen who sell fish directly to another individual for use as bait or personal consumption.

Regional Director means the Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

Research Plan means the North Pacific Fisheries Research Plan developed by the North Pacific Fishery Management Council under the Magnuson Act.

Research Plan fisheries means the following fisheries: Bering Sea and Aleutian Islands management area groundfish, Gulf of Alaska groundfish, Bering Sea and Aleutian Islands area king and Tanner crab; and halibut from convention waters off Alaska.

Retained catch means the catch retained by either at-sea or shoreside processors, in round weight or round-

weight equivalents, from Research Plan fisheries.

Round weight or round-weight equivalents means:

(1) *For groundfish processed by shoreside processors*—scale weights of retained catches; for other than whole fish delivered to shoreside processors, fish product weight, as defined at § 672.2 of this chapter, divided by NMFS standard product recovery rates.

(2) *For groundfish processed by at-sea processors*—fish product weight, as defined at § 672.2 of this chapter, of each product divided by NMFS standard product recovery rates.

(3) *For Bering Sea and Aleutian Islands area crab processed by catcher/processors*—scale weight of a subsample multiplied by the number of subsamples comprising the retained catch.

(4) *For Bering Sea and Aleutian Islands area crab processed by mothership processor vessels*—scale weights of retained catches.

Shoreside processor or *shoreside processing facility* means processor as defined in this section.

Standard exvessel price means the exvessel price for species harvested in Research Plan fisheries, calculated annually by NMFS for each species or species group, from exvessel price information for all product forms, used in determining fee assessments.

Standard observer day means all or part of a 24-hour period that begins at 0001 hours Alaska local time (A.l.t.) and ends at 2400 A.l.t., during which an observer is stationed on a vessel or at a shoreside facility for purposes of complying with observer coverage requirements at § 677.10(a). A standard observer day cannot be attributed to more than one vessel or shoreside facility.

Standardized cost of an observer day means the cost per observer day used to calculate both the annual total cost of the Research Plan and the fee percentage specified under the annual Research Plan specification process at § 677.11.

Tanner crab means *Chionoecetes* species or hybrids of these species.

§ 677.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraphs (b) through (c) of this section.

(b) *Domestic fishing for groundfish.* Regulations governing the conservation and management of groundfish in the Gulf of Alaska and the Bering Sea and Aleutian Islands management area are set forth at 50 CFR parts 672 and 675, respectively. The conservation and management of groundfish in waters of the territorial sea and internal waters of the State of Alaska are governed by Alaska State regulation at 5 AAC 28 and Alaska Statute at A.S. 16.

(c) *King and Tanner crab fishing.* Regulations governing the conservation and management of king crab and Tanner crab in the Bering Sea and Aleutian Islands area are governed by Alaska Statutes at A.S. 16 and Alaska State regulations at 5 AAC 34, 35, and 39; and at part 671 of this chapter.

§ 677.4 Permits.

(a) *General.* In addition to the permit and licensing requirements at §§ 301.3, 672.4, 675.4, and 676.13 of this chapter, all processors of fish from Research Plan fisheries must have a Federal Processing Permit issued by the Regional Director under this section. Such permits shall be issued without charge.

(b) *Application.* The permit required under paragraph (a) of this section may be obtained by submitting to the Regional Director a completed Federal Processing Permit Application (Form FPP–1; see figure 1) containing the following information:

(1) The semi-annual period for which the permit is requested.

(2) The Research Plan fishery or fisheries for which the permit is requested.

(3) If the application is for an amended permit, the current Federal Processing Permit number and an indication of the information that is being amended.

(4) The processor owner's name or names; mailing address; person responsible, if the owner is a company; managing company, if any; telephone number; FAX number; and telex number.

(5) If the processing facility is a shoreside processor, the plant's name, address, ADF&G Processor Code, telephone number, FAX number, and telex number.

(6) If the processing facility is a vessel, the vessel's name, home port, net tonnage, length overall, U.S. Coast Guard number, telephone number, FAX number, telex number, INMARSAT (satellite communications) number, and ADF&G number.

(7) The owner's name, signature, and date.

(c) *Issuance.* (1) Permits required under this section will be issued by the Regional Director semi-annually.

(2) The Regional Director will issue a permit required under paragraph (a) of this section upon receipt of a complete application, if all Research Plan fees due are paid. Upon receipt of an incomplete or improperly completed application, the Regional Director will notify the applicant of the deficiency. No permit will be issued to an applicant until a complete application is submitted and all fees are paid.

(d) *Notification of change.* Any person who has applied for and received a permit under this section must notify the Regional Director, in writing, of any change in the information provided under paragraph (b) of this section within 10 days of the date of that change.

(e) *Duration.* The permit issued by the Regional Director will continue in full force and effect for the period January 1 through June 30, or July 1 through December 31, of the year for which it was issued, or until it is revoked, suspended, or modified under part 621 (Civil Procedures) of this chapter.

(f) *Alteration.* No person may alter, erase, or mutilate any permit issued under this section. Any permit that has been intentionally altered, erased, or mutilated is invalid.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. Each permit is valid only for the processor for which it is issued. The Regional Director must be notified of a change in ownership, pursuant to paragraph (d) of this section.

(h) *Inspection.* The permit issued under this section must be maintained on the processor vessel or at the shoreside processor. The permit must be available for inspection upon request by an authorized officer or any employee of NMFS or ADF&G designated by the Regional Director or Commissioner of ADF&G.

(i) *Sanctions.* Procedures governing permit sanctions are found at subpart D of 15 CFR part 904.

(j) *Disclosure.* NMFS will maintain a list of permitted processors that may be disclosed for public inspection.

§ 677.5 Recordkeeping and reporting.

(a) *Applicability.* Any processor that processes fish from a Research Plan fishery is responsible for compliance with the applicable recordkeeping and reporting requirements of this part.

(b) *General requirements.* Any form, record, or report that is required to be submitted or provided to the Regional Director must be addressed or delivered to the National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Submissions must be complete, legible, and in English.

§ 677.6 Research Plan fee.

(a) *Fee percentage.* The fee percentage will be set annually under procedures at § 677.11, such that the total fees equal the lesser of the following:

(1) The cost of implementing the Research Plan, including nonpayments,

minus any other Federal funds that support the observer program and any existing surplus in the North Pacific Fishery Observer Fund; or

(2) Two percent of the exvessel value of all Research Plan fisheries.

(b) *Bimonthly fee assessment.* The Research Plan bimonthly fee assessment is the fee percentage established pursuant to § 677.11 for the calendar year, multiplied by the standard exvessel price established pursuant to § 677.11 for the calendar year, multiplied by the round weight or round-weight equivalent of retained catch for each species from Research Plan fisheries during the bimonthly period.

(c) *Fee assessment payments.* Each processor that retains fish for processing from a Research Plan fishery must collect and pay the Research Plan fee. NMFS will bill each processor of Research Plan fisheries for bimonthly fee assessments, based on the best available information on retained catches processed during that bimonthly period. Bimonthly fee assessment payments must be in the form of certified check, draft, or money order payable in U.S. currency to "NOAA-NMFS." The Regional Director must receive payment in full within 30 calendar days from the date of issuance of each bimonthly fee assessment bill. Payments will be deposited in the North Pacific Fishery Observer Fund within the U.S. Treasury.

(d) *Disputed fee assessments.* A processor must notify the Regional Director, in writing, within 30 days of issuance of the bimonthly fee assessment bill, if any portion of the bimonthly fee assessment bill is disputed. The processor must pay the undisputed amount of the bimonthly fee assessment bill within 30 days of its issuance, and provide documentation supporting the disputed portion claimed to be under- or over-billed. The Regional Director will review the disputed bimonthly fee assessment bill and the documentation provided by the processor, and will notify the processor of his determination within 60 days of the date of issuance of the disputed bimonthly fee assessment bill. If the Regional Director determines a billing error had occurred, the processor's account will be rectified by credit or issuance of a corrected bimonthly fee assessment bill. If the Regional Director determines that a billing error had not occurred, the balance of the disputed bimonthly fee assessment bill is due within 15 days of issuance of the determination. Late charges will be assessed for payments not received within 15 days. If the processor does not dispute the amount of the bimonthly fee assessment bill within 30 days of its issuance, the bimonthly fee assessment will be final, and will be due to the United States.

(e) *Late charges.* The NOAA Office of the Comptroller shall assess late charges in the form of interest and administrative charges for late payment of fee assessments. Interest will accrue on the unpaid amount at a percentage rate established by the Federal Reserve Board and applied to funds held by the U.S. Treasury for each 30-day period, or portion thereof, that the payment is overdue.

(f) *Rebates for observer coverage (Applicable from January 1, 1995, through December 31, 1995.)*—(1) *General.* During the first year of the Research Plan, NMFS will rebate the cost for required observer coverage.

(2) *Applicability.* (i) Each processor that retains fish for processing from a Research Plan fishery must collect and pay the Research Plan fee under procedures set forth under paragraphs (b) through (e) of this section.

(ii) All catcher vessels and processors of Research Plan fisheries must obtain observer coverage based on coverage requirements at § 677.10(a).

(iii) Catcher vessels and processors that pay for required observer coverage are eligible for rebates issued by NMFS during the first year of the Research Plan.

(3) *Recordkeeping and reporting, for purposes of this paragraph (f)*—(i) *Requirement.* All NMFS-certified observer contractors and observer contractors supplying observers for processor vessels participating in the Bering Sea and Aleutian Islands area king and Tanner crab fishery under Alaska State regulations must submit to the Regional Director a completed Observer Coverage Rebate Application (Form FPP–2; see figure 2). Completed forms must be submitted within 15 days after the end of each calendar month during which payment is received for observer services provided by the observer contractor for vessel or processor compliance with observer coverage requirements at § 677.10(a).

(ii) *Observer Coverage Rebate Application.* Observer contractors may obtain Observer Coverage Rebate Application forms from the Regional Director. The application form requests the following information:

(A) Observer contractor name and signature of a person serving as a representative for the observer contractor;

(B) The name and mailing address of the person from whom payment of observer coverage was received and to whom the rebate will be issued;

(C) Identification of the vessel or shoreside processing facility that received observer coverage;

(D) The total amount paid for observer coverage and the total number of standard observer days paid for; and

(E) Name of the observer(s) and date(s) of standard observer day(s) paid for.

(4) *Issuance of rebates.* (i) Rebates for observer coverage will be based on information provided to NMFS by observer contractors on the Observer Coverage Rebate Application.

(ii) NMFS will issue rebates to the persons who paid an observer contractor for observer services. The rebate for each standard observer day an observer is deployed for service at a processor or aboard a vessel will equal either the actual payment to the observer contractor per standard observer day or the standardized cost of a standard observer day, whichever is less.

(iii) NMFS will issue rebates authorized under this paragraph (f) within 6 months of the receipt of the completed application form described under paragraph (f)(3) of this section. No rebate will be issued to a processor until all Research Plan fees required under this section are paid.

§ 677.7 General prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it shall be unlawful for any person to do any of the following:

(a) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer.

(b) Interfere with or bias the sampling procedure employed by an observer, including sorting or discarding any catch before sampling; or tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(c) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties.

(d) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature

of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(e) Process fish from a Research Plan fishery without a valid permit issued pursuant to this part.

(f) Deliver fish from a Research Plan fishery to a processor not possessing a valid permit issued pursuant to this part.

(g) Apply for or receive a rebate for observer coverage under provisions of § 677.6(f) that is based on false or inaccurate information.

(h) Fail to carry an observer when required by the Regional Director.

(i) Fish without an observer aboard a vessel that is required to carry an observer under § 677.10.

(j) Require an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

§ 677.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 677.9 Penalties.

See § 620.9 of this chapter.

§ 677.10 General requirements.

(a) *Compliance requirements applicable through December 31, 1995*—(1) *Compliance by operators of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish vessels*—(i) *Coverage requirements.* Observer coverage is required as follows:

(A) A mothership processor vessel of any length that processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer on board the vessel each day it receives or processes groundfish during that month.

(B) A mothership processor vessel of any length that processes from 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer on board the vessel at least 30 percent of the days it receives or processes groundfish during that month.

(C) A catcher/processor or catcher vessel 125 ft (38.1 m) in length overall or longer must carry a NMFS-certified observer at all times while fishing for groundfish, except for vessels fishing for groundfish with pot gear as provided in paragraph (a)(1)(i)(F) of this section.

(D) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) in length overall, but less than 125 ft (38.1 m) in length overall, must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which it participates for more than 3 fishing days in a directed fishery for groundfish. Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry a NMFS-certified observer during at least one fishing trip during that calendar quarter for each of the groundfish fishery categories defined under paragraph (a)(1)(ii) of this section in which it participates.

(E) A catcher/processor or catcher vessel fishing with hook-and-line gear that is required to carry an observer under paragraph (a)(1)(i)(D) of this section must carry a NMFS-certified observer during at least one fishing trip in the Eastern Regulatory Area of the Gulf of Alaska during each calendar quarter in which it participates in a directed fishery for groundfish in the Eastern Regulatory Area.

(F) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) in length overall fishing with pot gear must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which it participates for more than 3 days in a directed fishery for groundfish. Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish using pot gear must carry a NMFS-certified observer during at least one fishing trip during a calendar quarter for each of the groundfish fishery categories defined under paragraph (a)(1)(ii) of this section in which it participates.

(ii) *Groundfish fishery categories requiring separate coverage*—(A) *Pollock fishery.* Fishing that results in a retained catch of pollock, during any weekly reporting period, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(B) *Pacific cod fishery.* Fishing that results in a retained catch of Pacific cod, during any weekly reporting period, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(C) *Sablefish fishery.* Fishing that results in a retained catch of sablefish, during any weekly reporting period, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(D) *Rockfish fishery.* Fishing that results in a retained aggregate catch of rockfish of the genera Sebastes and Sebastolobus, during any weekly reporting period, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(E) *Flatfish fishery.* Fishing that results in a retained aggregate catch of all flatfish species, except Pacific halibut, during any weekly reporting period, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(F) *Other species fishery.* Fishing that results in a retained catch of groundfish, during any weekly reporting period, that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery as defined under paragraphs (a)(1)(ii) (A) through (E) of this section.

(iii) *Assignment of vessels to fisheries.* During any weekly reporting period, a vessel's retained catch composition of groundfish species or species groups for which a TAC has been specified under § 672.20 or § 675.20 of this chapter, in round weight or round-weight equivalents, will determine to which of the fishery categories listed under paragraph (a)(1)(ii) of this section the vessel is assigned.

(A) Catcher/processor vessels will be assigned to fishery categories at the end of each weekly reporting period based on the round weight or round-weight equivalent of the retained catch composition of groundfish reported on the vessels' weekly production report submitted to the Regional Director under § 672.5(c)(2) or § 675.5(c)(2) of this chapter.

(B) Catcher vessels that deliver to mothership processors in Federal waters during a weekly reporting period will be assigned to fishery categories based on the round weight or round-weight equivalent of the retained groundfish catch composition reported on the weekly production report submitted to the Regional Director for that week by the mothership processor under § 672.5(c)(2) or § 675.5(c)(2) of this chapter.

(C) Catcher vessels delivering groundfish to shoreside processors or to mothership processors in Alaska State waters during a weekly reporting period will be assigned to fishery categories based on the round-weight equivalent of the groundfish delivered to processors during that weekly reporting period and reported on one or more ADF&G fish

tickets as required under Alaska Statutes at A.S. 16.05.690.

(2) *Compliance by managers of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish shoreside processing facilities*—(i) *Coverage requirements.* Observer coverage is required as follows:

(A) A shoreside processing facility that processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer present at the facility each day it receives or processes groundfish during that month.

(B) A shoreside processing facility that processes 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month.

(3) *Compliance by processing vessel operators of Bering Sea and Aleutian Islands area king and Tanner crab.* An operator of a vessel that processes king or Tanner crab must have one or more State of Alaska-certified observers on board the vessel whenever king or Tanner crab are received or processed, if the operator is required to do so by Alaska State regulations at 5 AAC 39.645.

(b) *Compliance requirements applicable after December 31, 1995*—(1) *General compliance requirements for Research Plan fisheries*—(i) *Compliance by operators of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish vessels from the EEZ and halibut from convention waters off Alaska.* An operator of a vessel that catches and retains groundfish or halibut, or a vessel that processes groundfish or halibut, must carry one or more NMFS-certified observers on board the vessel whenever fishing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (b)(2) of this section.

(ii) *Compliance by managers of shoreside processing facilities of Bering Sea and Aleutian Islands management area and Gulf of Alaska groundfish from the EEZ and halibut from convention waters off Alaska.* A manager of a shoreside processing facility that processes groundfish or halibut received from vessels regulated under this part must have one or more NMFS-certified observers present at the facility whenever groundfish or halibut are received or processed, if the manager is required to do so by the Regional Director under paragraph (b)(2) of this section.

(iii) *Compliance by vessel operators of Bering Sea and Aleutian Islands area king and Tanner crab.* An operator of a vessel subject to this part must carry one or more NMFS-certified observers or ADF&G employees on board the vessel whenever fishing or processing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (b)(2) of this section.

(iv) *Compliance by managers of shoreside processing facilities of Bering Sea and Aleutian Islands area king and Tanner crab.* A manager of a shoreside processing facility that processes king or Tanner crab received from vessels regulated under this part must have one or more NMFS-certified observers, or ADF&G employees, present at the facility whenever king or Tanner crab is received or processed, if the manager is required to do so by the Regional Director under paragraph (b)(2) of this section.

(2) *Observer coverage for Research Plan fisheries*—(i) *Annual determination of coverage level.* The appropriate level of observer coverage necessary to achieve the objectives of the Research Plan, given the funds available from the North Pacific Fishery Observer Fund, will be established annually under procedures in § 677.11.

(ii) *Inseason changes in coverage level*—(A) The Regional Director may increase or decrease the observer coverage requirements for the groundfish, halibut, and crab observer programs at any time to improve the accuracy, reliability, and availability of observer data, and to ensure solvency of the observer program, so long as the standards of section 313 of the Magnuson Act and other applicable Federal regulations are met, and the changes are based on one or more of the following:

(*1*) A finding that there has been, or is likely to be, a significant change in fishing methods, times, or areas, or catch or bycatch composition for a specific fishery or fleet component.

(*2*) A finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

(*3*) A finding that any decrease in observer coverage resulting from unanticipated funding shortfalls must be consistent with the following priorities:

(*i*) Status of stock assessments;

(*ii*) Inseason management;

(*iii*) Bycatch monitoring; and

(*iv*) Vessel incentive programs and regulatory compliance.

(*4*) A determination that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revised program, and are necessary to meet fishery management needs.

(iii) The Regional Director will consult with the Commissioner of ADF&G prior to making inseason changes in observer coverage level for the crab observer program.

(iv) NMFS will publish changes in observer coverage requirements made under paragraph (b)(2)(ii) of this section in the **Federal Register**, with the reasons for the changes and any special instructions to vessels required to carry observers, at least 10 calendar days prior to their implementation.

(c) *Vessel responsibilities.* All vessels required to carry observers must have passed a U.S. Coast Guard safety inspection within the past 2 years and must carry proof to that effect on board. An operator of a vessel must:

(1) Provide, at no cost to observers, the State of Alaska, or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers of the vessel.

(2) Maintain safe conditions on the vessel for the protection of observers during the time observers are on board the vessel, by adhering to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(3) Allow observers to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States.

(4) Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(5) Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(6) Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(7) Allow observers to inspect and copy the vessel's daily fishing logbook, daily cumulative production logbook, transfer logbook, any other logbook or document required by regulations,

printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(8) Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to, assisting the observers in measuring decks, codends, and holding bins; providing the observers with a safe work area adjacent to the sample collection site; providing crab observers with the necessary equipment to conduct sampling, such as scales, fish totes, and baskets; assisting in collecting bycatch when requested by the observers; assisting in collecting and carrying baskets of fish when requested by observers; and allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(9) Move the vessel to such places and at such times as may be designated by the contractor, as instructed by the Regional Director, for purposes of embarking and debarking observers.

(10) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(11) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(12) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(13) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(d) *Shoreside processor responsibilities.* A manager of a shoreside processing facility must:

(1) Maintain safe conditions at the processing facility for the protection of observers by adhering to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of the processing facility.

(2) Notify the observers, as requested, of the planned facility operations and expected receipt of groundfish, crab, or halibut prior to receipt of those fish.

(3) Allow the observers to use the processing facility's communication equipment, on request, for the entry, transmission, and receipt of work-related messages at no cost to the observers or the United States.

(4) Allow observers free and unobstructed access to the processing facility's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(5) Allow observers to inspect and copy the shoreside processing facility's daily cumulative production logbook, transfer logbook, any other logbook or document required by regulations; printouts or tallies of scale weights; scale calibration records; bin sensor readouts; and production records.

(6) Provide all other reasonable assistance to enable the observer to carry out his or her duties, including, but not limited to, assisting the observer in moving and weighing totes of fish, cooperating with product recovery tests, and providing a secure place to store baskets of sampling gear.

(e) *Notification of observer contractors by processors and operators of vessels required to carry observers.* Processors and operators of vessels required to carry observers under the Research Plan are responsible for meeting their observer coverage requirements. Processors and vessel operators must notify the appropriate observer contractor, as identified by NMFS, in writing or facsimile copy, no less than 60 days prior to the need for an observer, to ensure that an observer will be available. Processors and vessel operators must notify the appropriate observer contractor again, in writing, facsimile copy, or by telephone, no less than 10 days prior to the need for an observer, to make final arrangements for observer deployment. Names of observer contractors, information for contacting contractors, and a list of embarkment/disembarkment ports for observers will be published in the **Federal Register** annually prior to the beginning of the calendar year (see § 677.11).

(f) *Release of observer data to the public*—(1) The following information collected by observers for each catcher processor and catcher vessel during any weekly reporting period may be made available to the public:

(i) Vessel name and Federal permit number;

(ii) Number of chinook salmon and "other salmon" observed;

(iii) The ratio of total round weight of halibut or Pacific herring to the total round weight of groundfish in sampled catch;

(iv) The ratio of number of king crab or *C. bairdi Tanner* crab to the total round weight of groundfish in sampled hauls;

(v) The number of observed trawl hauls or fixed gear sets;

(vi) The number of trawl hauls that were basket sampled; and

(vii) The total weight of basket samples taken from sampled trawl hauls.

(2) The information listed in paragraphs (f)(2) (i) through (xiii) of this section and collected by observers from observed hauls onboard vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public. The identity of the vessels from which these data are collected will not be released. The information consists of the following:

(i) Date;

(ii) Time of day gear is deployed;

(iii) Latitude and longitude at beginning of haul;

(iv) Bottom depth;

(v) Fishing depth of trawl;

(vi) The ratio of the number of chinook salmon to the total round weight of groundfish;

(vii) The ratio of the number of other salmon to the total round weight of groundfish;

(viii) The ratio of total round weight of halibut to the total round weight of groundfish;

(ix) The ratio of total round weight of herring to the total round weight of groundfish;

(x) The ratio of the number of king crab to the total round weight of groundfish;

(xi) The ratio of the number of *C. bairdi Tanner* crab to the total round weight of groundfish;

(xii) Sea surface temperature (where available); and

(xiii) Sea temperature at fishing depth of trawl (where available).

(3) In exceptional circumstances, the owners and operators of vessels may provide to the Regional Director written justification at the time observer data are submitted, or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (f) (1) and (2) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

§ 677.11 Annual Research Plan specifications.

(a) *Proposed Research Plan specifications.* Annually, after consultation between the Regional Director, the Council, and, in the case of observer coverage levels in the crab fisheries, the State of Alaska, NMFS will publish in the **Federal Register**, with opportunity for public comment: Proposed standard exvessel prices, total exvessel value, fee percentage, levels of observer coverage for Research Plan fisheries, standardized cost(s) of an observer day, and embarkment/disembarkment ports for observers, for the calendar year.

(1) *Standard exvessel prices.* Standard exvessel prices will be used in

determining the annual fee percentage for the calendar year and will be the basis for calculating bimonthly fee assessments. Standard exvessel prices for species harvested in Research Plan fisheries for each calendar year will be based on:

(i) Exvessel price information for the most recent 12-month period for which data are available;

(ii) Factors that are expected to change exvessel prices in the calendar year; and

(iii) Any other relevant information that may affect expected exvessel prices during the calendar year.

(2) *Total exvessel value.* The total exvessel value of Research Plan fisheries will be calculated as the sum of the product of the standard exvessel prices established under paragraph (a)(1) of this section and projected retained catches, by species.

(3) *Research Plan fee percentage.* The Research Plan fee percentage for a calendar year will equal the lesser of 2 percent of the exvessel value of retained catch in the Research Plan fisheries or the fee percentage calculated using the following equation:

$$\text{Fee percentage} = [100 \times (RRPC - FB - OF)/V]/(1 - NPR)$$

where RRPC is the projection of recoverable Research Plan costs for the coming year, FB is the projected end of the year balance of funds collected under the Research Plan, OF is the projection of other funding for the coming year, V is the projected exvessel value of retained catch in the Research Plan fisheries for the coming year, and NPR is the percent (expressed as a decimal) of fee assessments that are expected to result in nonpayment.

(4) *Observer coverage.* For the period January 1, 1995, through December 31, 1995, observer coverage levels in Research Plan fisheries will be as required by § 677.10(a). After December 31, 1995, the level of observer coverage will be determined annually by NMFS, after consultation with the Council and State of Alaska, and may vary by fishery and vessel or processor size, depending upon the objectives to be met for the groundfish, halibut, and king and Tanner crab fisheries. The Regional Director may change observer coverage inseason pursuant to § 677.10(b)(2)(ii).

(5) *Standardized cost of an observer day.* Standardized cost of an observer day is used to determine the Research Plan fee percentage. During the first year of the Research Plan, NMFS will use standardized cost(s) of an observer day, specified under paragraph (b) of this section, as a basis for rebates issued under § 677.6(f) of this part.

(6) *Embarkment/disembarkment ports.* Ports to be used to embark and disembark observers will be selected on the basis of convenience to the affected industry and on the availability of facilities, transportation, and accommodations deemed by the Regional Director to be necessary for the safe and reasonable deployment of observers.

(b) *Final Research Plan specifications.* NMFS will consider comments received on the proposed specifications and, following consultation with the Council, and with the State, in the case of observer coverage in the crab fisheries, will publish the final total exvessel value; standard exvessel prices; fee percentage; levels of observer coverage for Research Plan fisheries, including names of observer contractors and information for contacting them; standardized cost(s) of an observer day; and embarkment/disembarkment ports in the **Federal Register** annually prior to the beginning of the calendar year.

§ 677.12 Compliance.

The operator of any fishing vessel subject to this part, and the manager of any shoreside processing facility that receives groundfish, halibut, or king and Tanner crab from vessels subject to this part, must comply with the requirements of this part. The owner of any fishing vessel subject to this part, or any shoreside processing facility that received groundfish, halibut, or king and Tanner crab from vessels subject to this part, must ensure that the operator or manager complies with the requirements of this part and is liable, either individually or jointly and severally, for compliance with the requirements of this part.

Subpart B—General Provisions of Risk Sharing Pool for Insurance Purposes [Reserved]

BILLING CODE 3510-22-P

Figure 1. Federal Processing Permit Application (Form FPP–1)

NOAA-89-364

United States Department of Commerce
National Oceanic & Atmospheric Administration
National Marine Fisheries Service
P.O. Box 021668
Juneau, Alaska 99802-1668

OMB Approval No._____
Expires _____

FEDERAL PROCESSING PERMIT APPLICATION (FORM FPP-1)

Application for Federal Processing Permit for Gulf of Alaska Groundfish, Bering Sea and Aleutian Islands Groundfish, Bering Sea and Aleutian Islands king and Tanner Crab, and North Pacific Halibut (from Convention waters off Alaska).

BLOCK A - PERMIT INFORMATION
Enter the semi-annual permitting period for which you are applying: [ ] January 1 to June 30 [ ] July 1 to December 31 Year_____
The following fisheries require a Federal Processing Permit.
Check (√) the appropriate fisheries you would like to apply for:
[ ] Gulf of Alaska Groundfish (GOA)
[ ] Bering Sea and Aleutian Islands Groundfish (BSAI)
[ ] North Pacific Halibut (from Convention waters off Alaska)
[ ] Bering Sea and Aleutian Islands king and Tanner Crab

BLOCK B - AMENDED PERMIT INFORMATION
If this is an application for an amended permit:
Provide your current Federal Processing Permit Number: _____
Check (√) the item(s) that have changed:
[ ] Permit information (BLOCK A)
[ ] Owner information (BLOCK C)
[ ] Processing facility information (BLOCK D)

BLOCK C - OWNER INFORMATION	
1. Owner name(s) (Last - First - M.I.)	5. Telephone number ( )
2. Mailing address (street number, city, state, Zip code)	6. FAX number ( )
3. Person responsible if owner is a company	7. Telex number
4. Managing company, if any	

BLOCK D - PROCESSING FACILITY INFORMATION	
If the processing facility is shoreside:	
1. Plant's Name	4. Telephone number ( )
2. Address (street number, city, state, Zip code)	5. FAX number ( )
3. ADF&G processor code —	6. Telex number

If the processing facility is a vessel:	
1. Vessel's name	6. Telephone number ( )
2. Home port (city, state)	7. FAX number ( )
3. Net tonnage	8. Telex number
4. Length overall	9. INMARSAT number
5. Coast Guard number	10. ADF&G number

BLOCK E - SIGNATURE		
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct and complete.		
Owner's name (please print or type)	Signature	Date
The Federal Processing Permit is issued on a semi-annual basis. An application is considered incomplete if any prior fee payments are past due.		

Figure 2. Observer Coverage Rebate Application (Form FPP–2)

NOAA-89-680 FORM FPP-2 OMB Clearance No.. Expiration Date:

OBSERVER COVERAGE REBATE APPLICATION

1. Observer Contractor Name

2. Name and Mailing Address of Person from Whom Payment of Observer Coverage Was Received and To Whom Rebate Will Be Issued

Name

Mailing address

City State Zip Code

3. Signature of Representative for Observer Contractor:

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.

Signature of Representative Date

4. Observer Payment Information:

Total Amount Paid for Observer Coverage $ _____

Total Number of Standard Observer Days Paid For: _____

A standard observer day is defined as all or part of a 24-hour period that begins at 00:01 hours Alaska local time (A.l.t.) and ends at 24:00 hours A.l.t. during which an observer is stationed on a vessel or at a shoreside facility for purposes of complying with observer coverage requirements set forth in regulations at 50 CFR part 677.10(a). A standard observer day can not be attributed to more than one vessel or shoreside facility.

5. Identification of Vessel That Received Observer Coverage

Vessel Name

Vessel Federal Permit No. or ADF&G Registration No.

6. Identification of Shoreside Facility that Received Observer Coverage

Name of Facility

ADF&G Processor Code

7. Observer Coverage Information for Dates Corresponding to Total Number of Standard Observer Days Paid For in Block 4.

Name of Observer	Dates of Standard Observer Day(s) Paid For	Number of Standard Obs Days Paid
Total number of Standard Observer Days Paid This number should be reported in Block 4 of this form		

Submission Information For This Form:

Observer contractors must submit the information contained on this form to NMFS within 15 days after the end of each calendar month that they received payment for observer coverage. Forms may be submitted by FAX or mailed to the following address:

National Marine Fisheries Service
Alaska Region
P.O. Box 021668
Juneau, Alaska 99802

FAX Number: 907-586-7131

For further information, contact the Fisheries Management Division at 907-586-7228

The Public Reporting Burden Statement for this information collection is printed on the backside of this form

BILLING CODE 3510–22–C

Public Reporting Burden Statement

NMFS estimates that the public reporting burden will average 10 minutes per response for completing the Observer Coverage Rebate Application, 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 these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel), and to the Office of Management and Budget, Paperwork Reduction Project (0634–), Washington DC 20503 (Attn: NOAA Desk Officer)

[FR Doc. 94–10765 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–22–P

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50 CFR Part 642

[I.D. 050294A]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 7 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP) for review by the Secretary of Commerce (Secretary). Written comments are requested from the public.

DATES: Written comments must be received on or before July 1, 1994.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702.

Requests for copies of Amendment 7, which includes a regulatory impact review/initial regulatory flexibility analysis and an environmental assessment, should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609–2486, FAX 813–225–7015, or to the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, suite 306, Charleston, SC 29407–4699, FAX 803–769–4520.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared amendment to a fishery management plan be submitted to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving an amendment, immediately publish a notice that the document is available for public review and comment. The Secretary will consider public comment in determining approvability of the amendment.

Amendment 7 proposes the following actions. (1) The eastern zone commercial quota for the Gulf migratory group of king mackerel would be divided into equal quotas for Florida east and west coast fisheries. The Florida east coast sub-zone would encompass the waters off the east coast of Florida from a line extending directly east from the Volusia/Flagler County, Florida boundary (29°25′N. lat.) to a line extending directly east from the Dade/Monroe County, Florida boundary (25°20.4′N. lat.). The east coast sub-zone would exist from November 1 through March 31, when the boundary separating the Gulf and Atlantic migratory groups of king mackerel is a line extending directly east from the Volusia/Flagler County, Florida boundary. From November 1 through March 31, the Florida west coast sub-zone would encompass the waters off the southeast, south, and west coasts of Florida from the Dade/Monroe County, Florida boundary to a line extending directly south from the Alabama/Florida boundary (87°31′06″–W. long.). From April 1 through October 31, when the boundary separating the Gulf and Atlantic migratory groups of king mackerel is a line extending directly west from the Monroe/Collier County, Florida boundary (25°48′N. lat.), the west coast sub-zone would extend from the Monroe/Collier County, Florida boundary to the Alabama/Florida boundary. (2) The west coast sub-zone quota would be further subdivided into equal quotas for fishermen harvesting with hook-and-line and those using run-around gillnet gear. (3) Persons would be allowed to fish under the gillnet quota in the west coast sub-zone only aboard vessels that have endorsements on their Federal commercial mackerel permits to fish with gillnets in that sub-zone. All harvest of Gulf group king mackerel in the west coast sub-zone by vessels with such an endorsement would be counted against the gillnet quota.

Proposed regulations to implement Amendment 7 are scheduled for publication within 15 days.

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

Dated: May 3, 1994.

Richard H. Schaefer,

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

[FR Doc. 94–11001 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 59, No. 87
Friday, May 6, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service and Commodity Credit Corporation

Feed Grain Donations; Fort Totten Indian Reservation of North Dakota

AGENCY: Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Executive Vice President, Commodity Credit Corporation (CCC) and the Administrator, Agricultural Stabilization and Conservation Service, is announcing that the reservation and grazing land of the Fort Totten Indian Reservation of North Dakota is an acute distress area and that CCC-owned feed grain will be donated to needy livestock owners on the reservation.

FOR FURTHER INFORMATION CONTACT: John Newcomer, Livestock Programs Branch, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, DC 20013–2415, 202–720–6157.

SUPPLEMENTARY INFORMATION: Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, notice is being given that I have determined that:

1. The chronic economic distress of the needy members of the Devils Lake Sioux Tribe (the Tribe) of the Fort Totten Indian Reservation of North Dakota has been materially increased and become acute because of excessive rains in the summer of 1993, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by CCC for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing land of the Tribe to be an acute distress area and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Tribe utilizing such lands. These donations by the CCC may commence upon May 1, 1994, and shall be made available through May 31, 1994, or such other date as may be stated in a notice issued by the Administrator, Agricultural Stabilization and Conservation Service.

Signed at Washington, DC, on May 2, 1994.

Grant Buntrock,

Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–10933 Filed 5–5–94; 8:45 am]

BILLING CODE 3410–05–P

Animal and Plant Health Inspection Service

[Docket No. 92–190–4]

Animal Damage Control Program; Availability of the Final Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a final environmental impact statement for the Animal Damage Control program. The final environmental impact statement addresses the function, methods of operation, locations, and the biological, sociocultural, economic, and physical impacts of reasonable alternatives for the agency's Animal Damage Control program.

ADDRESSES: Copies of the final environmental impact statement are available for review between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the following locations:

APHIS Reading Room, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250;

Operational Support Staff, Animal Damage Control, APHIS, USDA, room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782;

Eastern Regional Office, Animal Damage Control, APHIS, USDA, Suite 370, 7000 Executive Center Drive, Brentwood, TN 37027;

Denver Wildlife Research Center, Building 16, Denver Federal Center, Denver, CO 80225;

Western Regional Office, Animal Damage Control, APHIS, USDA, 12345 W. Alameda Parkway, suite 313, Lakewood, CO 80228.

Interested persons may obtain a copy of the final environmental impact statement by writing to Richard L. Wadleigh at the address listed below under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Wadleigh, Environmental Management Staff Officer, Animal Damage Control, APHIS, USDA, room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8281.

SUPPLEMENTARY INFORMATION:

Background

Animal Damage Control (ADC) of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, in cooperation with the Bureau of Land Management of the U.S. Department of the Interior, and the Forest Service of the U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the ADC program. Copies of this document were filed with the Environmental Protection Agency (EPA) on April 26, 1994, pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)), and the EPA Notice of Availability appeared in the **Federal Register** on May 6, 1994.

On January 14, 1993 (58 FR 4404–4405, Docket No. 92–190–1), we published a notice of intent to make available a supplement to the draft EIS for the ADC program. The draft EIS, made available on June 18, 1990 (55 FR 24597–24598, Docket No. 90–099), evaluated environmental impacts associated with wildlife damage control activities. On February 12, 1993, we

published in the **Federal Register** (58 FR 8252, Docket No. 92–190–2) a notice advising the public that the supplement to the draft EIS for the ADC program was available for public review and comment. Comments were due on or before March 29, 1993.

Because of the size and complexity of the supplement to the draft EIS, and in response to a number of requests, on March 29, 1993, we published in the **Federal Register** (58 FR 16520, Docket No. 92–190–3) a notice advising the public that we were extending the comment period until April 28, 1993.

By close of business April 28, 1993, we had received 1,493 comments on the draft EIS and its supplement. Based on suggestions and information offered in the comments, we have revised the draft EIS and its supplement, and have produced a final EIS.

This notice is issued in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 28th day of April 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–10669 Filed 5–5–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Sensors Technical Advisory Committee; Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held May 26, 1994, 8:30 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of export controls affecting sensors and lasers.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, EA/OAS—room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: May 3, 1994.

Lee Ann Carpenter,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 94–10994 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A-421-805]

Notice of Final Determination of Sales at Less Than Fair Value: Aramid Fiber Formed of Poly-Phenylene Terephthalamide From the Netherlands

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

EFFECTIVE DATE: May 6,1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Katt or Michael Ready, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.; Washington, DC 20230; telephone: (202) 482-0498 or (202) 482-2613, respectively.

FINAL DETERMINATION: We determine that imports of aramid fiber formed of poly-phenylene terephthalamide (PPD-T aramid fiber) from the Netherlands are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination on December 9, 1993 (58 FR 65699, December 16, 1993), the following events have occurred:

On December 16, 1993, we received a request from the sole respondent in this investigation, Aramide Maatschappij V.O.F. (Arami) and Akzo Fibers, Inc. (the U.S. selling agent) (collectively Akzo) to postpone the final determination in this investigation until 135 days after the date of publication of the preliminary determination. On December 22, 1993, we did so and postponed this final determination until May 2, 1994 (58 FR 69329, December 30, 1993).

On February 23, 1994, petitioner (E.I. Du Pont de Nemours & Company) requested that references to tire cord fabric be deleted from the scope of the investigation. On April 21, 1994, petitioner revised its previous request, asking that tire cord fabric be expressly excluded from the scope of this investigation. (See "Scope of the Investigation" section of this notice, below.) Akzo submitted supplemental responses to sections B (third-country sales), C (United States sales) and D (cost of production/constructed value) of the questionnaire, revisions and corrections to its sales responses, and/

or revised computer tapes in December 1993, as well as February, March and April of 1994.

We conducted verification of Akzo's sales and cost questionnaire responses in the Netherlands and the United States in February and March of 1994, respectively.

Akzo and petitioner submitted case and rebuttal briefs on March 28 and 31, 1994, respectively. At Akzo's request, a public hearing was held on April 1, 1994.

Scope of the Investigation

The products covered by this investigation are all forms of poly para-phenylene terephthalamide aramid fiber from the Netherlands. These consist of PPD-T aramid in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-based nonwovens, chopped fiber and floc. Tire cord fabric is excluded from the class or kind of merchandise under investigation. PPD-T aramid fiber is classifiable under subheadings 5402.10.3020, 5402.10.3040, 5402.32.3000, 5503.10.0000, 5601.30.0000 and 5902.10.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS numbers are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Changes to the Scope of the Investigation

Prior to our preliminary determination, petitioner requested that we clarify that "tire cord fabric" constructed of PPD-T aramid fiber is included within the scope of this investigation. After considering comments from both parties, we preliminarily determined that this product is included within the scope of this investigation (58 FR 65699, December 16, 1993). We also invited comments from interested parties on this issue. Subsequent to the preliminary determination, petitioner requested that tire cord fabric be expressly excluded from the scope of this investigation. Also, Akzo submitted arguments opposing the inclusion of tire cord fabric. We have therefore excluded tire cord fabric from the class or kind of merchandise covered by this investigation.

Petitioner also requested that the term "nonwovens", as used in the description of the scope of the investigation, be clarified to include only spun-based and spun-laced nonwovens composed of PPD-T aramid fiber. We have made this clarification.

Finally, at the request of the U.S. International Trade Commission, we have replaced the words "this includes" with the words "these consist of" to further clarify the products covered by this investigation.

Class or Kind

Prior to our preliminary determination, Akzo argued that this investigation should involve at least three classes or kinds of merchandise: Yarn, staple fiber and pulp. After considering extensive comments from both parties, we preliminarily determined that the products covered by this investigation constitute a single class or kind of merchandise, and three such or similar categories. (See Preliminary Concurrence Memorandum, dated December 9, 1993, on file in room B-099 of the main building of the Department of Commerce). In our preliminary determination, we invited additional comments from interested parties on this issue. However, no additional evidence supporting a finding of three classes or kinds has been submitted. In addition, no comments in opposition to our preliminary determination have been filed. We therefore continue to find that the products covered by this investigation constitute a single class or kind of merchandise.

Period of Investigation

The period of investigation (POI) is January 1, 1993, through June 30, 1993.

Such or Similar Comparisons

We made fair value comparisons using the following such or similar categories: (1) Yarn; (2) staple fiber; and (3) pulp. Where we were not able to compare U.S. sales to sales of identical merchandise, we made similar merchandise comparisons on the basis of the criteria defined in Appendix V to the antidumping duty questionnaire, on file in room B-099 of the main building of the Department of Commerce. In accordance with 19 CFR 353.58, we made comparisons at the same level of trade, where possible.

Fair Value Comparisons

To determine whether Akzo's sales to the United States of PPD-T aramid fiber were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We included certain sales in our calculation of USP which Akzo contends were pursuant to a long-term contract negotiated prior to the POI. (For a further discussion of these sales, see comment 1 below.)
2. We increased U.S. indirect selling expenses by the amount of G&A expenses allocated to the aramid fibers business unit of Akzo Fibers Inc. by its parent company, Akzo America Inc. (see comment 6 below).
3. We recalculated inventory carrying costs incurred in the Netherlands on U.S. sales to reflect the short-term borrowing rate of Arami, (*i.e.*, the actual producer and seller of subject merchandise), (see comment 8 below).
4. We used the date of the start of the Dutch sales verification for all missing payment dates.

Foreign Market Value

As stated in our preliminary determination, we determined that the home market was not viable for any of the three such or similar categories. We selected Germany as the third country market for sales of yarn and staple fiber, and Japan as the third country market for sales of pulp. We calculated FMV as noted in the "Price-to-Price" and "Price to Constructed Value (CV)" sections of this notice.

Cost of Production

Petitioner alleged that Akzo's third country sales were made at prices below the cost of production (COP). On the basis of petitioners' allegations, we gathered and verified data on production costs.

We compared Akzo's third country prices to the COP as explained in our preliminary determination.

In order to determine whether third country prices were above the COP, we calculated the COP based on the sum of Arami's (i.e., the actual producer and seller of subject merchandise) submitted costs of materials, fabrication, general expenses, and packing, except in the following instances where the costs were not appropriately quantified or valued:

1. We recalculated interest expense based solely on Arami's financial statements (see DOC position for comment 12);
2. We included certain non-operating expenses in general and administrative (G&A) expenses (see DOC position for comment 17); and
3. We disallowed Arami's claimed reduction in fixed overhead for certain intercompany charges (see DOC position for comments 14 and 15).

Accordingly, we increased its submitted cost of manufacturing.

Price-to-Price Comparisons

For those products for which we had an adequate number of sales at prices equal to or greater than the COP, we based FMV on third country prices. We calculated FMV using the methodology described in our notice of preliminary determination, with the following exceptions:

1. We recalculated inventory carrying costs incurred in the Netherlands on German and Japanese sales and German credit expenses to reflect the short-term borrowing rate of Arami (see comment 7 below).
2. We used the average credit days of all transactions with a reported shipment and payment date for sales missing both a shipment and payment date. We have inserted the date of the start of the Dutch sales verification for those sales with missing payment dates only.
3. We corrected a clerical error in the calculation of third country indirect selling expenses.

Price to CV Comparisons

For those products without an adequate number of sales at prices above the COP, we based FMV on CV. We calculated CV based on the sum of the cost of materials, fabrication, general expenses, and U.S. packing cost. In accordance with section 773(e)(1)(B) (i) and (ii) of the Act we: (1) Included the greater of Arami's reported general expenses or the statutory minimum of ten percent of the cost of manufacture (COM), as appropriate and; (2) for profit, we used the higher of the statutory minimum of eight percent of the sum of COM and general expenses or the actual profit incurred as calculated on a market specific basis (see Comment 18). As a result, for the German market we used actual profit and for the Japanese market we used the statutory minimum of eight percent. We calculated CV based on the methodology described in the calculation of COP above, with the following exceptions:

1. In the financing calculation, we included additional interest expense based on market value (See Comment 13).
2. We corrected a clerical error in the calculation of third country profit.

In instances where we compared Akzo's U.S. prices to CV, we made deductions, where appropriate, for the weighted-average third country direct selling expenses. We also deducted the weighted-average third country indirect selling expenses. We limited this adjustment by the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Final Determination of Critical Circumstances

Petitioner alleged that "critical circumstances" exist with respect to imports of PPD-T aramid fiber from the Netherlands. Pursuant to section 733(e)(1) of the Act and 19 CFR 353.16, we have analyzed the allegations using the Department's standard methodology as discussed in our preliminary determination, except that for purposes of determining whether there have been massive imports we compared imports in five-month periods rather than four-month periods (see DOC position for comment 4). Accordingly, we find that critical circumstances do not exist.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified information provided by Akzo by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Certain comments cannot be discussed in this notice due to their business proprietary nature. The comments which have been excluded do not lend themselves to public summarization, and therefore have been discussed in the business proprietary version of the Final Concurrence Memorandum dated May 2, 1994 (Final Concurrence Memorandum), on file in room B-099 of the main building of the Department of Commerce.

Comment 1: Petitioner argues that the Department of Commerce (the Department) should include in its calculation of U.S. price Akzo's shipments during the POI made pursuant to a long-term agreement negotiated prior to the POI. Petitioner contends that the particular terms and circumstances of Akzo's agreement with this customer do not create a binding commitment on the part of either the buyer or seller and therefore do not create an enforceable sales contract.

Akzo argues that these shipments were pursuant to a long-term contract established prior to the POI and therefore are properly excluded from the U.S. database. Akzo further argues that certain terms and circumstances of the agreement should not prevent it from being considered a contract with a date of sale prior to the POI because the two parties acted upon and adhered to the contract. Finally, respondent points out that the Department confirmed at verification that all sales to this customer during the period of the contract were at the contract price.

DOC Position: In order for this agreement to be considered a long-term contract established prior to the POI, the agreement must fix both the price and quantity. At verification we examined all invoices to the customer for sales pursuant to the agreement during its effective period. Although we found that all sales were made at the specified price, we also found that the quantity purchased was substantially less than the amount specified in the contract.

Therefore, we conclude that the quantity was not fixed by the terms of the agreement because the quantities actually purchased over the period of the agreement were unrelated to those specified by the agreement. For this reason, we determine that the date of the agreement does not constitute the date of sale. Accordingly, we have used the date of shipment as the date of sale and have included all shipments to this customer during the POI in our calculation of U.S. price.

Comment 2: Petitioner argues that the Department should include in its calculation of U.S. price Akzo's shipments during the POI pursuant to a supply agreement which was signed prior to the POI but modified during the POI. Petitioner asserts that the modification to the agreement, in effect, created a new agreement with a date of sale within the POI.

Akzo argues that the contract modification did not alter the essential terms of the contract. Therefore, according to Akzo, all POI shipments pursuant to this agreement have a date of sale prior to the POI and thus are properly excluded from the U.S. sales database.

DOC Position: We agree with Akzo. We verified that the essential terms of the contract, the price and quantity, were not altered as a result of the modification. Therefore, we consider Akzo's agreement with this customer to be a long-term contract with a date of sale prior to the POI. Consequently, the shipments in question were properly not reported.

Comment 3: Petitioner argues that Akzo's shipments made pursuant to supply contracts with two customers during the POI should be reported as U.S. sales, if not already reported.

Akzo contends that these sales have been reported.

DOC Position: The sales in question were reported.

Comment 4: Petitioner argues that the Department should find that imports of subject merchandise were massive over a relatively short period of time and that consequently, critical circumstances exist in this investigation under 735 (a)(3)(B) of the Act. In its analysis, petitioner compared shipments to the United States with a base period prior to the filing of the petition of May-July, 1993, with shipments to the United States in the post-petition comparison period of August-October, 1993. Using this comparison, petitioner found that imports had increased during the comparison period by more than 15 percent, the Department's benchmark.

Akzo argued that imports were not massive, and that the petitioner's methodology was not consistent with the practice of the Department.

DOC Position: We agree with Akzo. In this case, the petition was filed on July 2, 1993. It is the Department's standard policy, in cases where the petition is filed during the first half of the month, to include the month of filing in the post-petition comparison period, not the base period, as petitioner suggests (See, e.g., Certain Portable Electronic Typewriters from Singapore, 58 FR 43337 (1993)). Additionally, although 19 CFR 353.16(g) requires that we examine at least three months, it is the Department's practice to examine the longest period for which information is available up until the preliminary determination (See, e.g., Certain Cut-to-Length Carbon Steel Plate from the United Kingdom, 58 FR 37216 (1993)). When the five month period subsequent to and including the month that the petition was filed is compared to the previous five months, we find that imports were not at levels we consider massive.

Comment 5: Petitioner argues that certain sales of scrap (which were excluded from our analysis in the preliminary determination because the quantity involved was insignificant) should be included in the calculation of U.S. price for the following reasons: (1) The fact that the quantities are small is irrelevant; (2) other sales of the merchandise in question are included in the cost of production calculations; and (3) according to product specifications in Akzo's invoices, the merchandise in question is clearly a form of PPD–T aramid fiber which is subject to investigation.

Akzo argues that the Department properly excluded sales of scrap from its preliminary determination because the quantities sold in the United States were small and there were no similar sales of scrap in the comparison third country markets. Additionally, Akzo asserts that exclusion of scrap sales is consistent with the treatment of non-prime material in the recent carbon flat steel cases, where the Department disregarded sales of second quality merchandise in the U.S. market where there were no similar sales in the home market and they constituted an insignificant portion (less than five percent) of the respondent's total U.S. sales, (Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled and Certain Cold-Rolled Steel from the Netherlands, 58 FR 37199, 37201 (July 9, 1993)).

Akzo further argues that petitioner's reliance on the product designations on the invoices is misplaced because scrap is generated as part of the beaming (*i.e.*, repacking) process in the United States.

DOC Position: We agree with Akzo. The volume of scrap sales is insignificant and there are no comparable third country sales. Therefore, we have continued to exclude these sales from our calculations. In addition, at verification we verified that most of the scrap is tailings generated by the U.S. repacking operation and that, invoice descriptions notwithstanding, the product is sold as waste and the customer has no recourse to quality claims.

Comment 6: Petitioner argues that we should not exclude certain (G&A) expenses incurred by Akzo America, Inc. in the calculation of indirect selling expenses for purposes of the ESP deduction from U.S. price. Petitioner further argues that it is long-standing Department practice to consider G&A expenses incurred by the U.S. selling arms of a foreign producer to be indirect "selling expenses" for purposes of this deduction.

Akzo argues that it has captured all expenses of the selling affiliate, Akzo Fibers, in its calculation of indirect selling expenses. In addition, Akzo asserts that it has captured all selling-related expenses which were allocated to the aramid fiber business unit of Akzo Fibers by Akzo America. Akzo contends that all remaining G&A expenses carried on the books of Akzo America are not associated with the selling function at Akzo Fibers and therefore are properly not included in the calculation of U.S. indirect selling expenses.

DOC Position: We agree with petitioner. Akzo America is the parent company that provides administrative, accounting and finance services for all of Akzo's North American subsidiaries. In addition, there is no evidence that it provides any services for Akzo N.V. (its parent company in the Netherlands) other than to facilitate the activities of the subsidiaries in the United States. Therefore, all expenses incurred by Akzo America, including those classified on its books as G&A, are indirectly related to the selling activities of the subsidiaries. Consequently, we have included in the calculation of U.S. indirect selling expenses the amount of Akzo America's G&A expenses which have been allocated to the aramid fibers business unit of Akzo Fibers.

Comment 7: Petitioner argues that certain other G&A expenses listed on the June 1993 financial statement of Akzo America have not been allocated to any of the North American subsidiaries and that the representative portion attributable to the aramid fiber business unit should be included in the calculation of indirect selling expenses for purposes of the ESP deduction from U.S. price.

Akzo argues that these G&A costs are the same G&A expenses which are the subject of Comment 6 above.

DOC Position: We agree with petitioner that the G&A expenses of Akzo America should be included in the calculation of indirect selling expenses for purposes of the ESP deduction from U.S. price (see comment 6). However, we agree with Akzo that these G&A costs are the same G&A expenses which are the subject of Comment 6 (see memorandum to the file, dated April 22, 1994). Therefore, no additional increase to U.S. indirect selling expenses is necessary.

Comment 8: Petitioner argues that in calculating the Dutch portion of U.S. inventory carrying costs, the Department should use the short-term borrowing rate of Arami (*i.e.*, the actual producer and seller of the subject merchandise), rather than the rate of Akzo N.V., the parent company. Petitioner asserts that Arami's borrowing rate is appropriate because Arami is the company which actually financed the inventory and is a separate corporate entity from Akzo N.V.

Akzo argues that Akzo N.V.'s short-term borrowing rate should be used in calculating the Dutch portion of the inventory carrying cost for the same reasons it argues that Akzo N.V. and Arami should be consolidated for determining a financial expense ratio for CV and COP. (See the discussion below at Comment 11). Respondent also argues, in the event that the Department decides not to collapse the two companies and uses Arami's short-term borrowing rate in calculating U.S. inventory carrying cost, that the

Department should also use Arami's short-term borrowing rate in the calculation of inventory carrying costs incurred in the Netherlands on sales made in Japan and Germany and in the calculation of German credit.

DOC Position: As noted in our response to Comment 11 below, we have determined that it is not appropriate to collapse Arami and Akzo N.V. Therefore, we agree with petitioner and have used the short-term borrowing rate of Arami in calculating the inventory carrying costs incurred in the Netherlands on U.S., German and Japanese sales. We have also applied Arami's rate in the calculation of German credit expense, as suggested by Akzo.

Comment 9: Petitioner argues that Akzo's U.S. customs duty calculation may be incorrect because there are discrepancies between the list of customs entries for subject merchandise entering Akzo's warehouses in the United States during the POI and the list of all shipments to the United States provided by Akzo in connection with the critical circumstances allegation.

Akzo argues that petitioner has erroneously assumed that the entries included in the two lists should correspond exactly. In fact, respondent argues, the list of shipments includes additional entries that did not enter Akzo's warehouse but were transferred directly to U.S. customers, entries made after the POI, and invoices that were cancelled.

DOC Position: We agree with Akzo. The two lists will not correspond exactly. One list represents the volume of subject merchandise entering Akzo's U.S. warehouses during the POI, while the other represents the volume of subject merchandise shipped from the Netherlands during the POI. In addition, at verification we determined that the list of entries used for Akzo's U.S. duty calculation was complete and accurate.

Comment 10: Akzo argues that the Department made clerical errors in its calculation of the ESP offset and difference in merchandise adjustment in its preliminary determination.

DOC Position: We agree with respondent. We have corrected these errors in our final determination. Also, see our response to Comment 18.

Comment 11: Petitioner argues that Arami and Akzo N.V. should not be consolidated for COP or CV calculations. Petitioner states that while they were clearly related, Akzo N.V. held only a 50 percent equity interest in Arami and their operations were never consolidated for financial reporting or any other purposes. According to both Dutch and U.S. generally accepted accounting principles (GAAP), consolidation is required when one company holds more than a 50 percent equity interest in another company. Petitioner asserts that the reorganization of the Arami joint venture should not be factored into the Department's cost analysis because this development occurred after the POI. Petitioner claims that if the Department departed from its practice of investigating costs and prices during the POI, it would constitute an arbitrary departure from established practice as well as an invitation for post-POI cost and price manipulation by foreign producers.

Petitioner maintains that the Department's reason for collapsing transactions between related parties which do not reflect "arm's length" costs is to eliminate any substantial risk of price and cost manipulation between those companies. Petitioner states that the legal and operational structure of Arami was designed so that its operations would not be consolidated under Dutch law. Additionally, petitioner asserts that the actual cost of producing aramid fiber is more accurately reflected by Arami's own books and records instead of its records consolidated with the Akzo Group. Petitioner contends that the companies in the cases cited by Arami do not relate to this case because the companies met the requirements for consolidation and should have been consolidated under GAAP (*i.e.*, equity ownership was greater than 50 percent).

Arami claims that Akzo N.V. exerted significant control over its operation not only in 1993, but in all preceding years. Arami states evidence of this close interrelationship is illustrated by its financing transactions as well as evidence of organizational and operational control. Arami argues that it is the Department's practice to combine financing activities of companies where one company exerts significant control over the other company. It also claims that this is in keeping with the Department's position on fungibility of capital. Arami has informed the Department that Akzo Fibers Aramide B.V., a wholly-owned subsidiary of Akzo N.V., increased its equity interest in Arami to 95 percent effective December 31, 1993. Arami concludes that, based on the fungibility of capital, increased equity ownership and significant control, the Department should consolidate Arami with Akzo N.V. for cost of production and constructed value purposes. Arami states that it was consolidated with Akzo N.V. for balance sheet reporting purposes as of December 31, 1993, and would be fully consolidated on both the income statement and balance sheet in the fiscal year 1994.

Additionally, Arami claims that in previous cases, the Department has combined the parent and subsidiary's costs even though consolidation did not occur in the normal course of business. In citing the Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-weld Pipe Fittings from Thailand (pipe fittings), 57 FR 21065 (1992), respondent quotes the Department as saying: "* * * it is the Department's policy to combine the financing activities of a parent and subsidiary when the parent exercises control over the subsidiary (*i.e.* meets the requirements for consolidation)." Respondent also cites the Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Brazil (Ferrosilicon), 59 FR 732 (1994), to further support its claim.

DOC Position: We agree with petitioner, and have not consolidated Arami and Akzo N.V. for purposes of this antidumping investigation. The corporate reorganization which was effective December 31, 1993, was not considered by the Department because it occurred subsequent to the POI.

Each of the joint venture partners had equal control over decisions involving Arami's operations until the new agreement was signed in 1994. Under Dutch GAAP, if a company does not have equity ownership of greater than 50 percent, but still has control over another company, it is required to consolidate. Since Arami was not consolidated with Akzo prior to reorganization, we can reasonably conclude that Akzo did not have sufficient control over Arami to warrant consolidation under Dutch GAAP. Therefore, consolidation of Arami and the Akzo N.V. for antidumping purposes based on a significant control argument is unwarranted.

In the two cases cited by Arami, the GAAP of those countries required consolidation when one company owned more than 50 percent of another. In the Pipe Fittings case, the Japanese parent company, Awaji Sangyo K.K. Company Ltd. (ASK) owned more than 50 percent of Awaji Sangyo Co. Ltd., (AST) of Thailand. Although ASK and AST did not prepare consolidated financial statements, the Department in its cost verification report (April 4, 1992, pg.3) noted "* * * the operations should have been consolidated in accordance with generally accepted accounting principles." In Ferrosilicon, the parent company owned greater than 50 percent of Minasligas, its subsidiary under investigation. Brazilian and U.S. GAAP require consolidation when the

equity interests exceed 50 percent. In each of those cases, control was indicated by equity ownership and GAAP required consolidation. In contrast to the above cases, Arami did not meet the requirements for consolidation. For further analysis of this issue, see the Final Concurrence Memorandum.

Comment 12: Since Arami was not consolidated with Akzo N.V. during the POI, petitioner asserts interest expense should be calculated based solely on Arami's 1992 audited financial statements. Petitioner argues that the Department must disregard the reorganization finalized subsequent to the POI which resulted in Arami being consolidated with Akzo N.V. for balance sheet purposes. In addition, petitioner states this consolidation did not affect the income statement encompassing the POI.

Arami argues that the combined 1992 financial statement data of Arami and Akzo N.V. is the correct basis for computing interest expense because Akzo N.V. exerts significant control over Arami's operations and capital is fungible. Arami argues that the consolidation for balance sheet purposes as of December 31, 1993, affects the entire fiscal year 1993.

DOC Position: We disagree with respondent. A company's balance sheet presents a snapshot of its assets and claims on those assets (liabilities and equity) as of a specific point in time (*i.e.*, 12/31/93). An income statement reports a company's performance over a specified period of time (*i.e.*, 1/1/93-12/31/93). Arami's operating results were not consolidated with the results of the Akzo N.V. Group in 1993. Based on the Department's decision not to consolidate Arami with Akzo N.V., we calculated interest expense for COP and CV based solely on Arami's financial statements. For further analysis of this issue, see the Final Concurrence Memorandum.

Comment 13: Petitioner asserts that interest on loans provided by a related party should be included in the calculation of Arami's financing costs for COP and CV purposes. Petitioner states that according to the Court of Appeals for the Federal Circuit in *IPSCO, Inc.* v. *U.S.*, 965 F.2d 1056 (1992), cost of production is linked to constructed value. Thus, the petitioner states that the constructed value provision authorizing the Department to disregard related party transactions which are not arms-length in nature can be applied to cost of production calculations. Petitioner asserts that Arami's argument for consolidation does not eliminate the costs associated with these loans. Furthermore, the year end reorganization does not modify costs incurred during the POI. Petitioner contends that consolidation did not affect the income statement for the period January 1 through December 31, 1993.

Arami claims that as a result of the new joint venture agreement signed in 1994, Arami's balance sheet was consolidated with that of Akzo N.V., eliminating all related party loans. Therefore, the Department cannot impute an interest cost to loans that do not exist as of December 31, 1993. Arami claims its 1992 audited financial statement data should be used in calculating interest expense, but adds that the significant change in Arami's corporate structure must be considered. Arami continues that if the Department determines consolidation is unwarranted, and decides imputation of interest expense is necessary for CV, it should not impute interest for COP. Arami argues that the Department's long standing policy is to compute COP based on a company's actual costs, thus, there is no basis on which to impute interest for COP.

DOC Position: According to section 773(e)(2) of the Act, for CV, if a transaction between related companies does not fairly reflect the market value, the Department may determine that element of value using the best evidence available. In this case, we found that the loans in question were at below-market interest rates. Thus, we included the interest incurred on the loans provided by Arami's related party in the calculation of financing costs for CV purposes.

We determined that no related party financing adjustment is necessary for COP purposes. In determining actual costs of production, the Department normally adheres to the GAAP of the respondent's home country. Under Dutch GAAP, economic activities are normally consolidated for all companies that have direct or indirect ownership greater than 50 percent. In accordance with ITA's standard practice, the supplier's actual costs of production should be used to value inputs acquired from companies that are directly or indirectly related by more than 50 percent. Inputs acquired from companies that have direct or indirect ownership of 50 percent or less, should normally be valued using transfer prices (i.e., purchaser's actual cost). Accordingly, for COP purposes, we used Arami's transfer prices.

For further analysis of these issues, see the Final Concurrence Memorandum.

Comment 14: Petitioner states that certain charges were paid by Arami for services rendered by related Akzo companies. Since certain of these charges are used to approximate the price charged in an arm's length transaction and were actual costs incurred, Petitioner states it is appropriate to include these costs in the cost of manufacturing.

Arami claims certain of these charges are intracompany transactions which do not represent true costs and will be discontinued in 1994, therefore, these costs should be excluded from the cost of manufacturing for both COP and CV purposes.

DOC Position: We disagree with respondent. These charges relate to intercompany transactions between Arami and another company, which represent actual costs incurred by Arami and recorded on its books during the POI. Arami incorrectly categorized these costs as intracompany transactions which relates to transactions between divisions within a company. The fact that this charge may be discontinued in 1994 does not mean the costs should be excluded for 1993. Accordingly, we included these charges in Arami's COP and CV calculations.

Comment 15: Petitioner states that certain costs incurred by Akzo N.V. prior to the POI and recorded in Arami's 1992 audited financial statements in accordance with GAAP should be included in the COP. Petitioner states that this expense should be either charged to U.S. sales as a selling expense or to all sales as a general and administrative expense.

Akzo argues that these costs incurred by Akzo N.V. do not represent true costs for Arami during the POI. The accrual on Arami's books for this cost has not been paid to Akzo N.V. and the expense will no longer be charged in 1994. Therefore, this intercompany transaction should be excluded from the submitted cost of manufacturing.

DOC Position: Since this expense relates to the general production activity of Arami, we included it in Arami's general and administrative expense calculation for COP and CV purposes. This expense represents an actual cost recorded on Arami's books during the POI and the fact that the expense will no longer be charged in 1994 is not relevant.

Comment 16: Petitioner asserts that the Department should disallow a certain adjustment to Arami's fixed overhead costs for grants because it is not recorded in Arami's cost accounting system and the reduction in costs attributed to this adjustment distorts Arami's true cost of manufacturing.

Petitioner notes that if the Department allows this reduction, we should self-initiate a countervailing duty investigation.

Arami claims that it properly adjusted its fixed overhead costs by a certain amount because this adjustment is recorded in Arami's financial accounting system, and is included in its audited financial statements. Arami notes that inclusion of this adjustment in no way distorts Arami's costs, because it reflects amounts actually incurred. Additionally, Akzo notes that because not all grants are countervailable, the Department should resist petitioner's statements requesting self-initiation of a countervailing duty investigation.

DOC Position: This adjustment reflects actual costs incurred by Arami as recorded on its books in accordance with GAAP, and was properly included in its submitted COP and CV. We believe subsidies are more properly handled in the context of the countervailing duty law. Petitioner is free to submit a countervailing duty petition. Should such a petition be submitted and meet the requirements of the countervailing duty regulations (19 CFR 355.12), the Department would initiate such an investigation. However, no justification has been presented here for a departure from the Department's general policy of not self-initiating countervailing duty investigations.

Comment 17: Petitioner claims that several other non-operating expense items should be included in G&A costs because each of these expenses relate to the aramid fibers business. Petitioner asserts all G&A expenses related to the subject merchandise should be included in cost of production and constructed value.

Arami claims that no additional adjustment to G&A expense for non-operating expenses is warranted. Arami asserts that two of the expenses noted by petitioner are already included in the submitted G&A calculation. Additionally, Arami contends that the related party provision included in other non-operating expenses is an intracompany payment and has no relevance in the context of this dumping investigation.

DOC Position: We adjusted the G&A calculation to include the related party payment and two other non-operating expense items noted in the cost verification report which were associated with the general operations of Arami. The related party payment is an actual cost incurred by Arami and recorded on its books in accordance with GAAP. Two of the other non-operating expenses mentioned by the petitioner are already included in submitted G&A costs, thus no adjustment is necessary.

Comment 18: Arami contends that for purposes of constructed value, the Department should calculate a weighted-average profit figure for pulp sales in Japan and yarn and staple sales in Germany.

DOC Position: We disagree with Arami. We believe that it is appropriate to calculate all selling expenses and profit specific to the market in which the products in question were sold rather than average profit across two or more countries. Consequently, we calculated one average profit for pulp sold in Japan and another for yarn and staple sold in Germany.

However, we corrected a clerical error in the calculation of profit noted by Arami which resulted in double counting.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of PPD–T aramid fiber from the Netherlands that are entered, or withdrawn from warehouse, for consumption on or after December 16, 1993, the date of publication of our preliminary determination in the **Federal Register.** The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Weighted-average margin
Akzo	55.84
All Others	55.84

ITC Notification

In accordance with section 735(d) of the Act, we have notified the U.S. International Trade Commission of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO. This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: May 2, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10993 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–817]

Electroluminescent High Information Content Flat Panel Displays and Display Glass Therefor From Japan; Court Decision and Suspension of Liquidation

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

ACTION: Notice of court decision.

SUMMARY: On April 14, 1994, the United States Court of International Trade (CIT) affirmed the International Trade Commission's amended determination on remand that there is no material injury to the U.S. industry from imports of electroluminescent (EL) flat panel displays and display glass therefor (FPDs) from Japan. If the case is not appealed, or is affirmed on appeal, then the antidumping duty orders on El FPDs will be revoked.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Timken Co.* v. *United States,* 893 F. 2d.337 (Fed. Cir. 1990), Commerce will continue to order the suspension of liquidation of the subject merchandise.

EFFECTIVE DATE: April 25, 1994.

FOR FURTHER INFORMATION CONTACT: Michael Diminich or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1991, the International Trade Commission (ITC) determined that a U.S. industry was being materially injured by reason of imports of FPDs from the Japan (56 FR 43937, Sept. 5, 1991). On September 4, 1991, the Department published an antidumping duty order on EL FPDs (56 FR 43741).

The ITC decision was appealed, and the CIT remanded the determination to the ITC to reconsider its injury determination. On March 8, 1993, the ITC determined on remand that no U.S. industry was being materially injured by reason of imports of El FPDs. This remand was affirmed by the CIT on April 14, 1994, *Hosiden Corporation* v.

United States, Slip Op. 94–60 (CIT April 14, 1994).

Accordingly, absent an appeal, or , if appealed, upon a final decision by the Court of Appeals for the Federal Circuit (CAFC) affirming the CIT, the antidumping duty order will be revoked. Plaintiffs in the proceedings obtained an injunction enjoining liquidation of entries of EL FPDs that remain unliquidated as of 5 p.m., January 24, 1994. Therefore, revocation of the order will be effective for all entries that remain unliquidated as of the date of revocation.

Suspension of Liquidation

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the CAFC held that the Department must publish notice of a decision of the CIT or the CAFC which is not in harmony with the Department's or the ITC's respective determinations. Publication of this notice fulfills that obligation. The CAFC also held that in such a case, the Department must suspend liquidation until there is a final decision in the action. Therefore, the Department is continuing to suspend liquidation at the current cash deposit rate pending the expiration of the period of appeal of, if appealed, pending a final decision of the CAFC.

Dated: April 30, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10992 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–614–801]

Fresh Kiwifruit From New Zealand; Preliminary Results of Antidumping Duty Administrative Review

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

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

SUMMARY: In response to a request by the respondent, the New Zealand Kiwifruit Marketing Board, the Department of Commerce has conducted an administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. The review covers one exporter and the period November 27, 1991, through May 31, 1993. The review indicates the existence of margins for the exporter.

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

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: Amer M. Kayani or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5346 or 482–3814, respectively.

Background

On June 2, 1992, the Department of Commerce (the Department) published the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203). The Department published a notice of "Opportunity to Request Administrative Review" on June 7, 1993 (58 FR 31941). The respondent, the New Zealand Kiwifruit Marketing Board (NZKMB), requested that we conduct an administrative review for the period November 27, 1991, through May 31, 1993. We published a notice of "Initiation of Antidumping and Countervailing Duty Administrative Review" on July 21, 1993 (58 FR 39007), announcing an administrative review of the NZKMB. The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The product covered by this review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of this review. The subject merchandise is currently classifiable under subheading 0810.90.20.60 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

United States Price

Exporter's Sales Price: As provided in section 772(c) of the Tariff Act, we used the exporter's sales price (ESP) as U.S. price for certain sales by the NZKMB to the United States; these sales were made to the first unrelated party in the United States after importation, and hence warranted ESP methodology.

We calculated ESP based on packed F.O.B. (ex-New Zealand coolstore), and packed F.O.B., freight-prepaid prices. We made deductions, where appropriate, for New Zealand inland freight (coolstore to port), loading charges in New Zealand, ocean freight, basic marine insurance, charter insurance, U.S. import duties, U.S. brokerage and handling, U.S. inland freight (decreased to account for prepaid freight where applicable), and price discounts (*i.e.*, advertising allowances, special advertising allowances, market adjustment discounts, advertising rebates which actually constituted discounts, and discounts for quality problems). In accordance with sections 772(e) (1) and (2) of the Tariff Act, we made additional deductions, where appropriate, for agent commissions, broker commissions, credit, direct advertising, and indirect selling expenses. Indirect selling expenses included inventory carrying costs, repacking, U.S. primary and U.S. satellite coolstore charges, New Zealand and U.S. instore insurance, fire insurance, product liability and tamper insurance, earthquake insurance, indirect advertising, quality control expenses, miscellaneous selling-agent-related charges, U.S.-incurred indirect expenses, and New Zealand incurred indirect selling expenses associated with selling in the United States. We increased the U.S. price to account for post sale price adjustments not reflected in the gross price.

Purchase Price: As provided in section 772(b) of the Tariff Act, we used purchase price to represent the U.S. price for sales made on a CIF basis directly by the NZKMB. Deductions were made, where appropriate, for ocean freight, foreign inland freight, and inland/marine insurance in accordance with section 772(d)(2) of the Tariff Act.

Foreign Market Value

The Department determined that home market sales did not constitute a viable basis for calculating foreign market value (FMV). Therefore, in accordance with 19 CFR 353.48 and 353.49(b), the Department chose sales to Japan as the basis of FMV. Japan is the largest third-country market based on information submitted by the NZKMB. Neither the petitioner nor the respondent raised in this review any other factor relevant to third country selection, hence we did not consider any other factor in determining the third-country market.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. In consideration of the significant volume of third-country sales involved in this review, we decided to test respondents' third-country sales to determine whether we could use annual FMVs as a basis of comparison to U.S. sales. To determine

whether a period of review (POR) weighted-average price was representative of the transactions under consideration, we performed a three-step test. See *Antifriction Bearings from Japan, et al.; Final Results of Review*, 58 FR 42289 (1993).

We first compared the monthly weighted-average third-country price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary more than plus or minus 10 percent from the monthly weighted-average prices. We did this test for each model of kiwifruit. We then compared the volume of sales of all models of kiwifruit whose POR weighted-average price did not vary more than plus or minus 10 percent from the monthly weighted-average price with the total volume of sales of kiwifruit. If the POR weighted-average price of at least 90 percent of sales of kiwifruit did not vary more than plus or minus 10 percent from the monthly weighted-average price, we considered the POR weighted-average price to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for each model. We found that no significant correlation existed between price and time (See analysis memorandum to the file, 4/25/94). That is, prices did not consistently rise or fall so as to make annual weighted-average prices unrepresentative of home market prices.

Because many of the NZKMB's sales were determined to be at prices below the cost of production (COP) during the investigation, the Department initiated a COP investigation for the purposes of this administrative review. Just as the Department found in the investigation, we find that in comparing third-country sales to COP, the reseller/exporter's acquisition prices are irrelevant because section 773(b) of the Tariff Act requires that the Department look at the actual COP of the subject merchandise. Thus, we used the cost incurred by kiwifruit farmers, the actual producers of the subject merchandise, to calculate the COP benchmark.

Due to the large number of growers from which the NZKMB purchased kiwifruit during the POR, the Department determined that sampling was both administratively necessary and methodologically appropriate to calculate a representative cost of producing the subject merchandise for purposes of this administrative review (See section 777A of the Tariff Act). Based on comments submitted by the petitioner and the respondent, we decided to select kiwifruit growers on a stratified basis across the categories of regional location. Farms were stratified by geographic regions into either the Bay of Plenty region or non-Bay of Plenty regions. This division was made because 70 percent of the New Zealand kiwifruit is produced in the Bay of Plenty region and it is considered to be the most cost-effective area in which to grow kiwifruit. Once farms were categorized into two geographic regions, a random sample of 20 growers was selected. Since 70 percent of the New Zealand kiwifruit production originates in the Bay of Plenty region, we selected 14 growers representing this region. An additional six growers were selected from the non-Bay of Plenty regions.

We sent COP questionnaires through the NZKMB to the 20 kiwifruit growers, all of which responded to the Department's questionnaire. These 20 responses, along with supplemental responses and verification results, were analyzed and relied upon, where appropriate, in reaching the preliminary results of the review.

We calculated the cost of cultivation for each grower by summing all costs for the 1992 kiwifruit season. These costs included the cost of materials, farm labor, farm overhead, and packing. We allocated the cost on a per tray-equivalent basis over the total number of tray-equivalents submitted by each grower to the NZKMB. We then adjusted those costs to reflect the fruit loss of 22 percent, which was disclosed by the NZKMB in its financial statement. We added the NZKMB's general and administrative expenses to the farm's average cost per tray.

The orchard set-up costs for all growers were amortized over 20 years (See memorandum to Holly A. Kuga, 4/21/94). Because several growers failed to provide actual orchard set-up costs, we must base our determination on the "best information available" (BIA), pursuant to 19 CFR 353.37(a). For those growers that did not or could not provide actual set-up costs, we used grower number 17's average cost per hectare, collected at verification, as BIA to calculate set-up costs. These are the highest orchard set-up costs of the 20 growers in our sample.

For growers that allocated costs over the productive area, that is, canopy area, we made adjustments to include the headlands and sidelands in the productive area of the kiwifruit orchard for the purpose of allocating costs.

We made adjustments to growers' cost for depreciation, interest, labor, repairs, management, vehicles, fertilizer, spraying, rates (property tax), electricity, shelter, water, general and administrative, pruning, and mowing on a farm-specific basis where appropriate.

For the grower that failed verification, we used BIA to determine its COP, pursuant to 19 CFR 353.37(a). This BIA was based on the highest COP we calculated for all responding growers.

We calculated a simple average COP from the sampled growers' individual COPs. The total COP was calculated on a New Zealand dollar per single-layer tray equivalent basis (NZ$/SLT).

Pursuant to Department practice, in conducting our COP analysis, if over 90 percent of a respondent's sales of a particular model were at prices above the COP, we did not disregard any below-cost sales of that model because we determined that the respondent's below-cost sales were not made in substantial quantities, as required under section 773(b) of the Tariff Act. See *Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand; Final Determination of Sales at Less Than Fair Value*, 57 FR 21065 (1992). If between 10 and 90 percent of a respondent's sales of a particular model were at prices above the COP, we retained the sales above cost for analysis, and we examined the sales below cost to determine whether they occurred over an extended period of time. Consistent with the Departments' practice, the Department disregarded those sales made below cost if occurring in more than two months. Where we found that more than 90 percent of respondent's sales of a model were at prices below the COP and over an extended period of time, we disregarded all home market sales of that model and based FMV on constructed value (CV) in accordance with section 773(b) of the Tariff Act. There is no information on the record demonstrating that prices of below cost sales would recover all costs within a reasonable period of time.

To calculate CV, the statutory minimum profit of eight percent was added because the NZKMB's actual profit was less than the statutory minimum (See section 773(e) of the Tariff Act). We added selling, general and administrative expenses for the NZKMB to the farm's average cost per tray because the actual expenses were higher than the statutory minimum of 10 percent.

We adjusted third-country prices, where appropriate, to reflect deductions for rebates, New Zealand inland freight, New Zealand inland freight insurance, New Zealand port loading expenses, ocean freight and charter insurance. Direct advertising, imputed credit, and letter of credit charges were also deducted. We also deducted indirect selling expenses including inventory

carrying costs, New Zealand instore and fire insurance, product liability and tamper insurance, indirect advertising, and other indirect selling expenses when calculating FMV for comparison to ESP transactions. This deduction for third country indirect selling expenses was capped by the amount represented by U.S. indirect selling expenses plus U.S. commissions, in accordance with 19 CFR 353.56(b).

Preliminary Results of Review

We have preliminarily determined that the following margin exists for the period November 27, 1991, through May 31, 1993:

Manufacturer/exporter	Margin (percent)
New Zealand Kiwifruit Marketing Board	35.86

Interested parties may request disclosure within five days of the date of publication of this notice, and a hearing within 10 days of the date of publication. Any hearing requested will be held as early as convenient for parties but not later than 44 days after the date of publication, or the first workday thereafter. Case briefs, or other written comments, from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication. The Department will publish the final results of review, including its results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review; and (2) the cash deposit rate for merchandise exported by all other manufacturers and exporters who are not covered by this or any previous administrative review conducted by the Department will be the "all others" rate of 98.60 percent established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: April 29, 1994.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 94–10989 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–807]

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan; Termination of Circumvention Inquiry of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of termination of circumvention inquiry of antidumping duty order.

SUMMARY: On June 9, 1992, the Department of Commerce (the Department) received a request from Brecoflex Corporation (Brecoflex) for a circumvention inquiry of the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured, from Japan with respect to imports by Mectrol Corporation (Mectrol). Pursuant to that request, the Department initiated a circumvention inquiry on October 18, 1993 (58 FR 53706). The circumvention inquiry covers the period January 1, 1992 through June 30, 1993.

Based on a review of Brecoflex's submissions in conjunction with the International Trade Commission's (ITC) analysis of the manufacturing process for production of industrial power belts, the Department determines that Brecoflex does not have standing as a domestic producer of a like product to file the request in the instant inquiry. Therefore, we are terminating the circumvention inquiry.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: Kimberley Huffman at (202) 482–0780 or Wendy Frankel at (202) 482–5253, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1989, the Department published the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured, from Japan (54 FR 25314). On August 4, 1989, we published an amended order (54 FR 32104). On June 9, 1992, Brecoflex, who identified itself as a producer of a like product in the United States, alleged that the antidumping duty order on industrial belts from Japan was being circumvented and requested that the Department investigate the matter. The Department initiated a circumvention inquiry on October 18, 1993.

In several submissions, Mectrol alleged that Brecoflex did not have standing to file a request for a circumvention inquiry. Therefore, on February 1, 1994, and February 28, 1994, the Department issued a standing questionnaire and supplemental standing questionnaire, respectively, to Brecoflex. Brecoflex responded to the standing questionnaires on February 17, 1994, and March 4, 1994.

Analysis

Standing To File a Request for a Circumvention Inquiry

Section 353.29 of the Department's regulations states that "[a]ny interested party, as defined in § 353.2(k), may file" a request for a circumvention inquiry (19 CFR 353.29). In its June 9, 1993, request for a circumvention inquiry, Brecoflex claimed standing to bring the request as a domestic producer of industrial power belts. The provision in the Department's regulations for standing as a producer is § 353.2(k)(3) which includes in the definition of interested party "[a] producer in the United States of the like product" (19 CFR 353.2(k)(3)).

Brecoflex's U.S. Operations

In its June 9, 1992, request for a circumvention inquiry, Brecoflex

claimed standing to bring the request as a producer in the United States of a like product as covered by the antidumping duty order on industrial belts from Japan. Pursuant to questions raised by Mectrol concerning Brecoflex's standing to bring this request for a circumvention inquiry, the Department issued a standing questionnaire to Brecoflex. In its standing questionnaire response, Brecoflex explained its U.S. operations as follows.

Brecoflex states that it imports from Germany polyurethane timing belts and performs secondary operations on these belts in its only United States facility in Eatontown, New Jersey. The secondary operations consist of the following:

(1) Slitting of roll stock and truly endless belts to narrower belt widths;
(2) Cutting roll stock to specific lengths;
(3) Splicing and welding of open-ended roll stock to finished belts;
(4) Attaching injection molded profiles to belt backs; and
(5) Machining of finished belts such as edge grinding, removing sections of teeth, providing holes for joining belts in linear drives, and grinding of belt back.

Brecoflex states that it fabricates, markets and sells three basic types of synchronous polyurethane timing belts that it considers to be subject merchandise. These belts include the Breco M, the Breco V, and the Brecoflex. Brecoflex performs the operations listed above on these three belts. (See the Department's April 15, 1994, Recommendation Memorandum for further detail.)

Production of Industrial Power Belts

In its final report during the injury investigation in 1989, the ITC determined that there are four main stages in the manufacturing of industrial power transmission belts:

(1) Parts manufacturing,
(2) Assembling or building,
(3) Curing or vulcanizing, and
(4) Finishing and packaging (see Industrial Belts from Japan, USITC Pub. 2194 (1989) (ITC Report) at 6 and 7). In addition, the ITC Report describes the three main components of most industrial power belts: (1) A tensile member (a textile, fiberglass, or steel cord, yarn, or fabric), which adds strength to withstand the tension imposed in transmitting power;

(2) The base material (usually synthetic rubber, such as neoprene or plastics), which forms the bulk of the belt and encloses the tensile member, and is referred to as the undercord and the overcord; and

(3) Adhesion material or gum, which bonds all the components together (USITC Pub. 2194 at a–2).

As discussed above, Brecoflex either sells the German belts as imported, or performs secondary operations on the belts in preparation for sale. We determine that these secondary operations listed above do not add to the material composition of the belts or fundamentally alter the essential nature of the merchandise as imported. Specifically, the merchandise as imported already incorporates the three main components of industrial belts as described in the ITC Report. Furthermore, the belting stock as imported has already undergone, before arrival in the United States, the first three stages of the belt manufacturing process as described in the ITC Report.

As Brecoflex indicated in its request for a circumvention inquiry, the major cost in producing timing belts is incurred in production of the belt stock from which the finished belts are made. As Brecoflex itself explained, completion of a finished belt from belt stock requires merely slitting to width, cutting to length, and possibly die cutting to length and welding. According to Brecoflex, these operations—the same secondary operations that Brecoflex performs in its U.S. facility—involve some skilled labor but little in the way of machinery or capital investment. Thus, as indicated in its submissions, Brecoflex performs only secondary operations in its U.S. facility, all of which fall within the fourth stage of the belt manufacturing process as described in the ITC Report, i.e., finishing and packaging. Brecoflex also markets and services the imported roll stock it sells in the United States.

Based on the above analysis and the information submitted by Brecoflex, the Department determines that Brecoflex is not a domestic producer of industrial belts and, therefore, is not an interested party within the meaning of 19 CFR 353.2(k)(3) entitled to file a request for a circumvention inquiry. As such, the Department determines that Brecoflex does not have standing to file a request for a circumvention inquiry against Mectrol.

Conclusion

Because Brecoflex Corporation is not a producer of industrial power belts in the United States and, therefore, does not have standing under 19 CFR 353.2(k) to file a request for a circumvention inquiry with regard to the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured, from Japan, the Department hereby terminates this circumvention inquiry.

Dated: April 27, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10986 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–504]

Porcelain-On-Steel Cooking Ware From Mexico; Amendment to Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of Amendment to Final Results of Antidumping Duty Administrative Review.

SUMMARY: On August 16, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 43327) the final results of its administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico. Based on corrections of clerical errors, we have changed the margins for one company and are now amending the final results.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Rick Herring, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; Telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1993, the Department published the final results of its administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico (58 FR 43327). The review covered the period December 1, 1989 through November 30, 1990.

On August 24, 1993, we received a letter from counsel for CINSA, S.A., alleging that the Department had made ministerial errors. Petitioner submitted rebuttals to respondent's comments on September 1, 1993. On December 23, 1993, we determined that ministerial errors were made. (See Memorandum to Joseph A. Spetrini dated December 23, 1993; Corrections of Alleged Clerical/Ministerial Errors in Antidumping Duty Administrative Review.) Although these final results are the subject of litigation before the Court of International Trade

(the Court), by order dated March 31, 1994, the Court granted the Department leave to correct these errors.

Amended Final Results of Review

After reviewing all comments, we have corrected the errors where appropriate.

We corrected the double counting of CINSA's freight expenses for U.S. sales by deducting only the U.S. dollar factor amount, instead of both the dollar and pesos amounts, from U.S. prices to arrive at the net price used in our price-to-price comparisons.

We recalculated the brokerage charges on U.S. sales and used the correct brokerage expense factor to derive total brokerage charges.

We made an additional correction. We recalculated the home market sales price used in our determination of sales below cost by adding the value added tax to the home market price as stated in our notice of final results.

For further discussion of the Department's positions on the above corrections, see Memorandum to Joseph A. Spetrini dated December 23, 1993; Corrections of Alleged Clerical/ Ministerial Errors in Antidumping Duty Administrative Review.

As a result of our corrections of clerical errors, we determine the margin for CINSA, S.A., to be 6.71 percent.

Based on this rate, the Department will instruct the Customs Service to collect cash deposits of estimated antidumping duties and to assess antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of this review (58 FR 43327). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is in accordance with sections 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(f)) and 19 CFR 353.28(c).

Dated: April 30, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10990 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the application and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 94–00004." A summary of the application follows.

Summary of the Application

Applicant: Allegheny Highland Hardwoods, Inc., 6495 Webster Road, Portland, New York 14769, Contact: Jerry R. Miller, Telephone: 716–792–9482.

Application No.: 94–00004.

Date Deemed Submitted: April 22, 1994.

Members (in addition to applicant): Pomeroy Lumber, Inc., Nineveh, NY; Wright's Hardwood Inc., Fredonia, NY; J.A. Yansick Lumber Co., Inc., Arcade, NY; C.A. Elliott Lumber Co., Inc., Roulette PA; Lewis and Hockenberry, Inc., Emporium, PA; Whitesville Wood Products Co., Inc., Whitesville, NY; Aurora Woodworks, Ltd., Buffalo, NY; and Peter DeVivi Productions, Inc., Waterloo, NY.

Allegheny Highland Hardwoods, Inc. ("AHH") seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. Products

Forest products, including but not limited to, hardwood lumber, S4S Dimension, solid squares, laminated squares, furniture blanks, moulding, flooring, dowels, and panels, but excluding paper, cardboard, containerboard, and similar products.

2. Export Trade Facilitation Services (as They Relate to the Export of Products and Services)

Export Trade Facilitation Services including professional services in the areas of government relations, foreign trade and business protocol, marketing, marketing research, negotiations, shipping, export management, documentation, insurance and financing.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, as an Export Intermediary, AHH, Inc. and/or its Members may:

1. Enter into exclusive or non-exclusive agreements wherein AHH agrees to act as the Members' Export Intermediary. Exclusive agreements are

those wherein AHH agrees not to represent entities other than the Members in the sale of Products and provision of Export Trade Facilitation Services in any Export Market.

2. Meet to negotiate and agree on the terms of participation in each bid, invitation, or request to bid, or other sales opportunity in any Export Market, including, but not limited to, the price at which a Member will sell its Products for export, and the quantity of Products each Member will commit to the foreign sale or bid opportunity.

During the course of such meetings, the following information may be exchanged:

a. Information that is generally available to the public.

b. Information that is specific to a particular Export Market, including but not limited to, reports and forecasts of sales, prices, terms, customer needs, selling strategies, and product specifications.

c. Information on expenses specific to exporting to a particular Export Market, including, but not limited to, ocean freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents' commissions, export sales documentation and service, and export sales financing.

d. Information on U.S. and foreign legislation and regulations affecting sales to a particular Export Market.

e. Information on AHH's activities in the Export Markets, including, but not limited to, customer complaints and quality problems, visits by foreign customers, and reports by foreign sales representatives.

f. Information on each Member's ability to supply Products in a timely fashion pursuant to a specific export order.

3. AHH may enter into exclusive or non-exclusive agreements with other Export Intermediaries for the sale of Products in the Export Markets. Exclusive agreements are those wherein the Export Intermediary agrees to represent only AHH and/or its Members in the sale of Products and to provide Export Trade Facilitation Services only to AHH and/or its Members.

4. AHH may enter into exclusive agreements with foreign customers of Products offered by AHH whereby the customer agrees not to purchase Products from entities other than AHH.

5. Either with AHH's Members and/or Export Intermediaries with which AHH has entered into agreements pursuant to paragraph 3 above, AHH may discuss and agree on export prices to be charged by AHH, AHH's Members, or Export Intermediaries.

6. AHH may limit its membership.

7. AHH may publish and distribute a list of export prices for Products to be charged by AHH, AHH's Members, and Export Intermediaries with which AHH has entered into agreements pursuant to paragraph 3 above.

8. AHH may allocate orders for export sales, and divide profits from such sales among AHH's Members as provided in the membership agreement between AHH and AHH's Members.

9. AHH and/or AHH's Members may forward to the appropriate individual Member requests for information received from a foreign government or the foreign government's agent (including private pre-shipment inspection firms) concerning that Member's domestic or export activities (including prices and/or costs); and if such individual Member elects to respond, the Member shall respond directly to the requesting foreign government or the foreign government's agent with respect to such information.

Definitions

1. *Export Intermediary* means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. *Member* means a person who has a membership in Allegheny Highland Hardwoods, Inc. and who has been certified as a "Member" within the meaning of § 325.2(l) of the Regulations.

Dated: May 2, 1994.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 94–10893 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DR–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–045. *Applicant:* University of Wisconsin, 1500 Johnson Dr., #1109, Madison, WI 53706. *Instrument:* Complete Reflection High Energy Electron Diffraction System. *Manufacturer:* Staib Instrumente, Germany. *Intended Use:* The instrument will be used to study the electron diffraction pattern from the growth surface during the deposition of semiconductor materials in vacuum systems. *Application Accepted by Commissioner of Customs:* April 11, 1994.

Docket Number: 94–046. *Applicant:* North Carolina State University, Campus Box 7212, Raleigh, NC 27695-7212. *Instrument:* Submersible Profiling Spectroradiometer and High Resolution In-water Deck Cell. *Manufacturer:* Satlantic Inc., Canada. *Intended Use:* The instrument will be used to provide sea surface reflectance measurements to act as ground truth for the SeaWIFS satellite ocean color sensor. The collected data will be used to support the development of algorithms for phytoplankton biomass and productivity. In addition, the instrument will be used for training graduate students interested in remote sensing techniques. *Application Accepted by Commissioner of Customs:* April 12, 1994.

Docket Number: 94–047. *Applicant:* University of South Dakota, 414 E. Clark Street, Vermillion, SD 57069. *Instrument:* Rapid Kinetics Accessory. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument and accompanying accessories will be used in conjunction with a UV-visible spectrophotometer to monitor the rates of chemical reactions with half-lives in the range of about 5 seconds to 10 milliseconds. *Application Accepted by Commissioner of Customs:* April 12, 1994.

Docket Number: 94–049. *Applicant:* Mayo Foundation, 200 1st Street, SW, Rochester, MN 55905. *Instrument:* Mass Spectrometer with Combined Gas Chromatograph/Combustion Interface, Model Delta S. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used primarily to measure the enrichment of stable isotope labelled amino acids such as leucine and phenylalanine, incorporated into isolated muscle protein (e.g. myosin), skeletal muscle protein, plasma proteins (e.g. albumin, fibrinogen apo-lipoproteins) and the uptake of the labelled species into other plasma amino acids. *Application*

Accepted by Commissioner of Customs: April 12, 1994.

Docket Number: 94–050. *Applicant:* Wayne State University, 540 E. Canfield Avenue, Detroit, MI 48201. *Instrument:* Electron Microscope, Model JEM-1010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for studies of ocular and neuronal tissues (cornea, retina, lens) with the objective of defining pathogenesis of bacterial ocular disease; retinal neurotransmission; visual system connectivity; cataractogenesis; and properties of ocular basement membrane. *Application Accepted by Commissioner of Customs:* April 12, 1994.

Pamela Woods

Acting Director, Statutory Import Programs Staff

[FR Doc. 94–10987 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–DS–F

Minority Business Development Agency

Business Development Center Applications: State of Connecticut (Service Area)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program. The total cost of performance for the first budget period (12 months) from September 1, 1994 to August 31, 1995 is estimated at $222,196. The total Federal Amount is $188,867 and is composed of $184,260 plus the Audit Fee Amount of $4,607. The application must include a minimum cost-share of 15% ($33,329) of the total project cost through non-Federal contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the State of Connecticut geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state, and local governments, American Indian tribes and educational institutions.

The MBDC Program provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points).

An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal Awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

DATES: The closing date for applications is June 10, 1994. Applications must be postmarked on or before June 10, 1994. The mailing address for submission is:

ADDRESSES: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, room-3720, New York, New York 10278. (Area Code & Telephone Number): (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: William R. Fuller, Acting Regional Director, New York Office at (212) 264–3262.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days, Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contract person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs. Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Ourstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions

of the grant/cooperative agreement. Examples of some the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: May 2, 1994.

William R. Fuller,

Acting Regional Director, New York.

[FR Doc. 94–10910 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–21–M

National Institute of Standards and Technology

Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology Commerce.

ACTION: Notice of prospective grant of exclusive patient license.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology ("NIST"), U.S. Department of Commerce, is contemplating the grant of a field of use exclusive license in the United States to practice the invention embodied in U.S. Patent 5,274,545, titled, "Device and Method for Providing Accurate Time and/or Frequency" to Space Time, having a place of business in Columbus, Ohio. The patent rights in this invention have been assigned to the United States of America.

FOR FURTHER INFORMATION CONTACT: Bruce E. Mattson, National Institute of Standards and Technology, Technology Development and Small Business Program, building 221, room B–256, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent 5,274,545 relates to a device and method for providing an accurate output from a unit, such as an oscillator and/or clock providing an output indicative of frequency and/or time.

The availability of the invention for licensing was published in the **Federal Register**, Vol. 59, No. 45 (March 8, 1994). A copy of the patent may be obtained from NIST at the foregoing address.

Dated: April 29, 1994.

Samuel Kramer,

Associate Director.

[FR Doc. 94–10930 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 040494B]

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Notice of intent to prepare an environmental impact statement; request for scoping comments.

SUMMARY: NMFS announces its intention to prepare a proposed rule pursuant to the Endangered Species Act (ESA) that would amend NMFS' regulations relating to endangered and threatened species of sea turtles. The purpose of this notice is to alert the interested public of the commencement of a scoping process and to provide for public participation in the preparation of the environmental impact statement (EIS) as required by the National Environmental Protection Act (NEPA).

DATES: Written comments will be accepted by NMFS until June 6, 1994.

ADDRESSES: Written comments on this notice should be addressed to William W. Fox, Jr., Ph.D., Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD, 20910.

FOR FURTHER INFORMATION CONTACT: Phil Williams, Acting Chief, Endangered Species Division, (301) 713–2319; Doug Beach, Protected Species Program Coordinator, NMFS Northeast Regional Office, (508) 281–9254; or Charles A. Oravetz, Chief, Protected Species Program, NMFS Southeast Regional Office, (813) 893–3366.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA. Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*) and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. Loggerhead (*Caretta caretta*), green (*Chelonia mydas*) and olive ridley

(*Lepidochelys olivacea*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, and the breeding population of olive ridley turtles on the Pacific coast of Mexico, which are listed as endangered.

In 1990, the National Academy of Sciences (NAS) completed a review of the biology of sea turtles, and the causes and significance of their decline. The NAS concluded that incidental capture in shrimp trawls without turtle excluder devices (TEDs) is by far the leading cause of human-induced mortality to sea turtles at sea, but collectively, the activities in the non-shrimp fisheries constitute the second largest source of mortality. The study identified finfish trawls, seine nets, pompano gillnets, and various passive fishing gear such as sink gillnets, weirs, traps and longlines as potential sources of mortality to sea turtles.

NMFS is considering sea turtle conservation measures addressing incidental takings in non-shrimp fisheries. NMFS is considering many options, including: (1) Requiring the use of nets equipped with NMFS-approved turtle excluder devices (TEDs) at certain times of the year by non-shrimp bottom trawl fishing vessels fishing in waters of Delaware through Texas, to protect threatened and endangered sea turtles; (2) establishing a mandatory observer requirement in all fisheries that may take sea turtles incidental to fishing operations; and (3) providing a mechanism to allow NMFS to respond quickly to emergency situations that threaten listed sea turtles. Through these management actions, NMFS intends to protect endangered and threatened sea turtles in a manner that is compatible with commercial fishing operations. NMFS intends to solicit further public comments and to hold public hearings during the rulemaking process.

1. TED-Use Requirement

Under the current regulations, most shrimp trawlers are required to use TEDs in inshore and offshore waters from North Carolina through Texas. Other bottom-trawl vessels using essentially the same equipment are not required to use TEDs, despite operating in areas with turtles. NMFS has determined that non-shrimp bottom trawlers, such as summer flounder bottom trawlers, are as likely to capture and drown sea turtles as are shrimp trawlers. Through an interim rule (58 FR 48797, September 20, 1993), NMFS currently requires the summer flounder fishery to use TEDs in the waters off North Carolina and southern Virginia.

Turtle stranding and observation data suggest that turtles are found year-round off portions of North Carolina, in the waters of Virginia and Maryland from May through December, and in New York coastal bays from July through October. Information on turtle occurrence and capture is limited for areas north of Delaware Bay. However, NMFS is collecting data on the possible incidental take of turtles in the North Atlantic.

NMFS is considering requiring bottom trawlers operating in offshore waters south of Cape May, NJ, to use TEDs, and is collecting information regarding when and where bottom trawlers interact with sea turtles. NMFS requests comments on bottom trawl gear and fisheries that may capture sea turtles.

2. Mandatory Observer Coverage

Under the current regulations (50 CFR 227.72), NMFS must propose a temporary rule in order to require mandatory observer coverage in any non-shrimp fishery that may take sea turtles.

Non-shrimp fisheries using longlines, bottom trawls, gillnets, pound nets and traps are suspected to be major causes of sea turtle mortality at sea. The NAS recommended that NMFS conduct a comprehensive observer-based assessment of incidental capture of sea turtles in non-shrimp fisheries.

NMFS is considering establishing a mandatory observer requirement in those fisheries that are not already required to carry observers upon NMFS request. The observer system would require NMFS to publish a finding that a specific fishery is believed to be taking sea turtles. This finding would notify the fishery that the Regional Director may require observers at any time, and will notify vessel owners by personal communication. An observer requirement might also include a registration requirement, observer access requirement and observer treatment standards.

3. Emergency Response Framework

Under the current regulations (50 CFR 227.72), NMFS cannot take timely action during emergencies that result in mass turtle strandings. Unpredictable situations, despite compliance with current regulations, may require immediate sea turtle conservation measures that cannot wait for lengthy agency and public review. Emergency rulemaking can take 2 weeks to 2 months to implement, depending on the required measures and complexity of the rule.

NMFS is considering the establishment of framework measures to respond to specific sea turtle emergencies. For example, if NMFS determines that high concentrations of small juvenile turtles that are not excluded by standard TEDs are occurring with fishing activity, it may notify the fishery (through the **Federal Register** and various media) of immediate conservation measures such as gear modification, observers, or area closures. Because the industry will have been notified in advance through rulemaking that specific emergency measures may be required for specific purposes, delayed effectiveness and prior notice would not be required. Emergency conservation measures could be in effect for up to 30 days.

(Authority: 42 U.S.C. 4332 et seq.; 16 U.S.C. 1531 et seq.)

Dated: April 28, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–10962 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–22–P

[I.D. 042294D]

Marine Mammals

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

ACTION: Issuance of public display permit no. 915.

SUMMARY: Notice is hereby given that Film Animals, Inc. (Birds & Animals Unlimited), 1000 Universal Plaza, Orlando, FL 32819, has been issued a permit for public display purposes.

ADDRESSES: The permit is available for review by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, rm. 13130, Silver Spring, MD 20910 (301) 713–2289;

Director, Northeast Region, NMFS, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508) 281–9300);

Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Dr., St. Petersburg, FL 33702–3432;

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 (310) 9800–4016; and

Director, Northwest Region, NMFS, NOAA, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (206) 526–6150).

SUPPLEMENTARY INFORMATION: On Thursday, July 8, 1993, notice was published in the **Federal Register** (58 FR 36655) that an application (P530) has

been filed by Birds and Animals Unlimited, Universal Studios Florida, 1000 Universal Plaza, Orlando, FL 32837. A public display permit was requested to obtain the care and custody of two California sea lions (*Zalophus californianus*). The requested permit has been issued subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the conditions hereinafter set out.

Dated: April 28, 1994.

William W. Fox, Jr., Ph.D.

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–10912 Filed 5–5–94; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

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

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 6, 1994.

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 action.

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

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

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

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

3. 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.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Disk, Flexible
7045–01–283–4362
(15% of the Government requirement)
NPA: North Central Sight Services, Inc., Williamsport, Pennsylvania

Beverly L. Milkman,

Executive Director.

[FR Doc. 94–10979 Filed 5–5–94; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions and Deletions

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

ACTION: Proposed additions to and deletions from Procurement List.

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

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 6, 1994.

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.

Additions

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

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

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

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

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

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

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Snowshoes, Assault
8430–00–NSH–0002
(Requirements for the U.S. Marine Corps, Washington, DC)
NPA: Pride Industries, Bismarck, North Dakota

Services

Janitorial/Custodial, for the following Asheville, North Carolina locations: Asheville Federal Building, Patton Avenue and North French Broad Avenue, Federal Building and U.S. Courthouse, Otis and Post Streets
NPA: Goodwill Industries of Northwest North Carolina, Inc., Winston-Salem, North Carolina
Laundry Service, Lodging Colored Linen, McChord Air Force Base, Washington

NPA: Northwest Center for the Retarded, Seattle, Washington
Mailing Service, U.S. Government Printing Office, Washington, DC
NPA: Virginia Industries for the Blind, Richmond, Virginia

Deletions

The following commodities and service have been proposed for deletion from the Procurement List:

Bracket, Duct and Angle
5340–01–180–5984
5340–00–435–6451
5340–00–798–0897
Retainer
5340–00–409–8491
Cloth, Abrasive
5350–00–229–3085
5350–00–229–3088
Clamp Strap Fastener Assembly
5820–00–937–9844
Gown, Hospital, Patient's Bedshirt
6532–01–005–8411
6532–01–005–8412
Medical Packet, Individual Survival Kit, Airman's
6545–00–231–9421
Table, Office, Steel
7110–00–113–0507
7110–00–113–0509
Paper, Teletypewriter, Roll
7530–00–223–7966
7530–01–056–2900

Service

Food Service Attendant, Seneca Army Depot, Romulus, New York

Beverly L. Milkman,

Executive Director.

[FR Doc. 94–10980 Filed 5–5–94; 8:45 am]

BILLING CODE 6820–33–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Foster Grandparent and Senior Companion Programs

AGENCY: Corporation for National and Community Service.

ACTION: Notice of revision of income eligibility levels for the Foster Grandparent Program and Senior Companion Program.

SUMMARY: This notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and Senior Companion Program (SCP), published in 58 FR 13735, March 15, 1993 and 58 FR 40405, July 28, 1993

The revised schedules are based on changes in program regulations published in 59 FR 15120, March 31, 1994 and in the Poverty Guidelines from the Department of Health and Human Services (DHHS), published in 59 FR 6277, February 10, 1994. The change in regulations eliminates the SSI (Supplemental Security Income) adjustment to income eligibility used in prior years. No volunteer currently participating in these programs shall become ineligible as a result of this change in guidelines.

In accordance with the revised program regulations, the income eligibility level for each State is 125 percent of the DHHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living in which case the guideline shall be 135 percent of the DHHS Poverty Guidelines.

The level of eligibility is rounded to the next highest multiple of $5.00.

For purposes of determining eligibility, an amount not to exceed 15 percent of the applicable FGP/SCP income guideline is deductible from gross income for out-of-pocket medical expenses of the applicant, enrollee, or spouse.

Any person whose income is not more than 100 percent of the DHHS Poverty Guideline for her/his specific family unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

Schedule of Income Eligibility Levels: Foster Grandparent and Senior Companion Programs

1994 FGP/SCP INCOME ELIGIBILITY LEVELS

[Based on 125 Percent of DHHS Poverty Guidelines]

States	Family units of			
	One	Two	Three	Four
All, except High Cost Areas, Alaska & Hawaii	$9,200	$12,300	$15,400	18,500

For family units with more than four members, add $3,100 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii.

1994 FGP/SCP INCOME ELIGIBILITY LEVELS FOR HIGH COST AREAS

[Based on 135 Percent of DHHS Poverty Guidelines]

Area	Family units of			
	One	Two	Three	Four
All, except Alaska, & Hawaii	$9,940	$13,285	$16,635	$19,980
Alaska	12,240	16,605	20,790	24,975
Hawaii	11,435	15,285	19,130	22,980

(For family units with more than four members, add: $3,350 for all areas, $4,185 for Alaska, and $3,850 for Hawaii, for each additional member.

The income eligibility levels specified above are based on 135 percent of the DHHS poverty guidelines and are applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas (Including All Counties/Locations Included in That Area as Defined by the Office of Management and Budget)

Alaska

(All Locations)

California

Los Angeles—Long Beach
Marin County
Santa Barbara/Santa Maria/Lompoc
Santa Cruz-Watsonville
Santa Rosa
San Diego
San Jose
San Francisco

Oakland
Orange County
Ventura

District of Columbia/Maryland/Virginia

District of Columbia (and Surrounding Counties in MD. & VA.)

Hawaii

(All Locations)

Illinois

Chicago

Massachusetts

Boston
Salem-Gloucester
Worcester

New Jersey

Bergen-Passaic
Middlesex/Somerset/Hunterdon
Monmouth/Ocean
Newark
Trenton

New York

Nassau/Suffolk
New York
Westchester

Pennsylvania

Philadelphia

The revised income eligibility levels presented here are calculated from the base DHHS Poverty Guidelines now in effect as follows:

1994 DHHS POVERTY GUIDELINES FOR ALL STATES

States	Family units of			
	One	Two	Three	Four
All, except Alaska/Hawaii	$7,360	$9,840	$12,320	$14,800
Alaska	9,200	12,300	15,400	18,500
Hawaii	8,470	11,320	14,170	17,020

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Rey Tejada, Program Officer, Foster Grandparent Program, Corporation for National and Community Service, 1100 Vermont Avenue, NW., Washington, DC 50525 or Telephone (202) 606–5000.

SUPPLEMENTARY INFORMATION: These programs are authorized pursuant to sections 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by DHHS pursuant to sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: April 28, 1994.

James Scheibel,

Vice President, Corporation for National and Community Service, Director, Domestic Volunteer Service Programs.

[FR Doc. 94–10864 Filed 5–5–94; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Defense Contract Audit Agency (DCAA) Performance Review Boards

AGENCY: Defense Contract Audit Agency, DOD.

ACTION: Notice of membership of the Defense Contract Audit Agency Performance Review Boards.

SUMMARY: This notice announces the appointment of the members of the Performance Review Boards (PRBs) of the Defense Contract Audit Agency (DCAA). The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Performance Review Boards provide fair and impartial review of Senior Executive Service (SES) performance appraisals and make recommendations to the Director, DCAA, regarding final performance ratings and performance awards for DCAA SES members.

EFFECTIVE DATE: Upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Dale R. Collins, Director, Personnel and Security Division, Defense Contract Audit Agency, Department of Defense, Cameron Station, Alexandria, Virginia 22304–6178, 803–274–7325.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of the executives who have been appointed to serve as members of the DCAA Performance Review Boards. They will serve one-year terms, effective upon publication of this notice.

Headquarters Performance Review Board

Mr. John van Santen, Assistant Director, Resources, Defense Contract Audit Agency, Chairperson.
Mr. Russell Richards, Assistant Director, Operations, Defense Contract Audit Agency, member.
Mr. Michael Thibault, Assistant Director, Policy and Plans, Defense Contract Audit Agency, member.

Regional Performance Review Board

Mr. Francis Summers, Regional Director, Northeastern, Defense Contract Audit Agency, Chairperson.
Mr. William Kraft, Regional Director, Mid-Atlantic, Defense Contract Audit Agency, member.
Mr. Arlin Tueller, Deputy Regional Director, Western, Defense Contract Audit Agency, member.

Dated: May 2, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–10865 Filed 5–5–94; 8:45 am]

BILLING CODE 5000–4–M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 176. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 176 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: May 1, 1994.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective 1 June 1979. Per

Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

BILLING CODE 5000–04–M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:						
ADAK 5/	$ 10		$ 34		$ 44	10-01-91
ANAKTUVUK PASS	83		57		140	12-01-90
ANCHORAGE						
06-01--09-15	147		64		211	06-01-94
09-16--05-31	81		57		138	05-01-94
ANIAK	73		36		109	07-01-91
ATQASUK	129		86		215	12-01-90
BARROW	105		83		188	11-01-93
BETHEL	76		67		143	02-01-94
BETTLES	65		45		110	12-01-90
COLD BAY	110		54		164	07-01-93
COLDFOOT	95		59		154	10-01-92
CORDOVA	60		81		141	01-01-94
CRAIG	67		35		102	07-01-91
DENALI NATIONAL PARK	113		68		181	05-01-94
DILLINGHAM	85		64		149	11-01-93
DUTCH HARBOR-UNALASKA	113		67		180	05-01-92
EIELSON AFB						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
ELMENDORF AFB						
06-01--09-15	147		64		211	06-01-94
09-16--05-31	81		57		138	05-01-94
EMMONAK	62		61		123	10 01-93
FAIRBANKS						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
FALSE PASS	80		37		117	06-01-91
FT. RICHARDSON						
06-01--09-15	147		64		211	06-01-94
09-16--05-31	81		57		138	05-01-94
FT. WAINWRIGHT						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
HOMER						
05-01--09-30	71		60		131	05-01-94
10-01--04-30	60		58		118	02-01-94
JUNEAU						
04-30--09-14	92		74		166	04-30-94
09-15--04-29	78		73		151	01-01-94

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	MAXIMUM PER DIEM RATE - (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
KATMAI NATIONAL PARK	$ 89	$ 59	$148	12-01-90
KENAI-SOLDOTNA				
04-02--09-30	104	74	178	04-02-94
10-01--04-01	67	71	138	01-01-94
KETCHIKAN				
04-01--09-30	82	71	153	04-01-94
10-01--03-31	69	70	139	01-01-94
KING SALMON 3/	75	59	134	12-01-90
KLAWOCK	75	36	111	07-01-91
KODIAK	74	65	139	01-01-94
KOTZEBUE	133	87	220	05-01-93
KUPARUK OILFIELD	75	52	127	12-01-90
METLAKATLA				
06-01--10-01	95	58	153	06-01-94
10-02--05-31	72	56	128	02-01-94
MURPHY DOME				
05-15--09-15	106	59	165	05-15-94
09-16--05-14	68	55	123	01-01-94
NELSON LAGOON	102	39	141	06-01-91
NOATAK	133	87	220	05-01-93
NOME	71	67	138	10-01-93
NOORVIK	133	87	220	05-01-93
PETERSBURG				
04-16--10-14	77	56	133	05-01-94
10-15--04-15	72	56	128	10-15-94
POINT HOPE	99	61	160	12-01-90
POINT LAY 6/	106	73	179	12-01-90
PRUDHOE BAY-DEADHORSE	73	60	133	11-01-93
SAND POINT	75	36	111	07-01-91
SEWARD				
05-01--09-30	90	65	155	05-01-94
10-01--04-30	52	62	114	01-01-94
SHUNGNAK	133	87	220	05-01-93
SITKA-MT. EDGECOMBE	79	71	150	01-01-94
SKAGWAY				
04-01--09-30	82	71	153	04-01-94
10-01--03-31	69	70	139	01-01-94
SPRUCE CAPE	74	65	139	01-01-94
ST. GEORGE	100	39	139	06-01-91

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
ST. MARY'S	$ 77	$ 59	$136	06-01-93
ST. PAUL ISLAND	62	63	125	10-01-93
TANANA	71	67	138	10-01-93
TOK				
05-02--09-30	60	58	118	05-02-94
10-01--05-01	51	57	108	01-01-94
UMIAT	97	63	160	12-01-90
VALDEZ				
05-01--09-14	95	61	156	05-01-94
09-15--04-30	79	59	138	01-01-94
WAINWRIGHT	90	75	165	12-01-90
WALKER LAKE	82	54	136	12-01-90
WRANGELL				
04-01--09-30	82	71	153	04-01-94
10-01--03-31	69	70	139	01-01-94
YAKUTAT	77	58	135	11-01-93
OTHER 3, 4, 6/	63	48	111	01-01-93
AMERICAN SAMOA	85	47	132	12-01-91
GUAM	155	75	230	05-01-93
HAWAII:				
ISLAND OF HAWAII: HILO	73	61	134	06-01-93
ISLAND OF HAWAII: OTHER	80	71	151	06-01-93
ISLAND OF KAUAI				
04-01--11-30	110	75	185	06-01-93
12-01--03-31	122	76	198	12-01-93
ISLAND OF KURE 1/		13	13	12-01-90
ISLAND OF MAUI				
04-01--11-30	79	71	150	06-01-93
12-01--03-31	96	73	169	12-01-93
ISLAND OF OAHU	105	62	167	06-01-93
OTHER	79	62	141	06-01-93
JOHNSTON ATOLL 2/	21	20	41	10-01-93
MIDWAY ISLANDS 1/		13	13	12-01-90
NORTHERN MARIANA ISLANDS:				
ROTA	48	77	125	05-01-94
SAIPAN	89	80	169	05-01-94
TINIAN	50	72	122	05-01-94
OTHER	20	13	33	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO:				
BAYAMON				
05-01--12-14	$ 93	$ 73	$166	09-01-93
12-15--04-30	116	76	192	12-15-93
CAROLINA				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
FAJARDO (INCL CEIBA, LUQUILLO AND HUMACAO)				
04-16--12-10	65	52	117	10-01-93
12-11--04-15	110	52	162	12-11-93
FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO)				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
MAYAGUEZ	85	65	150	08-01-92
PONCE	96	75	171	09-01-93
ROOSEVELT ROADS				
04-16--12-10	65	52	117	10-01-93
12-11--04-15	110	52	162	12-11-93
SABANA SECA				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
SAN JUAN (INCL SAN JUAN COAST GUARD UNITS)				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
OTHER	63	52	115	08-01-92
VIRGIN ISLANDS OF THE U.S.				
06-02--12-19	180	112	292	09-01-93
12-20--06-01	255	120	375	12-20-93
WAKE ISLAND 2/	4	17	21	12-01-90
ALL OTHER LOCALITIES	20	13	33	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

FOOTNOTES

1/ Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

3/ On any day when US Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and incidental expenses at Shemya AFB, Clear AFS, Galena APT and King Salmon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.

6/ The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanzof APT, Fort Yukon RRL, Indian Mtn RRL, Sparrevohn RRL, Tatalina RRL, Tin City RRL, Barter Island AFS, Point Barrow AFS, Point Lay AFS and Oliktok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

	Daily Rate
DOD Personnel	$13

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

Non-DOD Personnel	$30

May 3, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–10934 Filed 5–5–94; 8:45 am]

BILLING CODE 5000–04–C

Department of the Army

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 17–19 May 1994.

Time of Meeting: 0900–1700.

Place: Pentagon, Washington DC (Room 1A1071 and 3A678).

Agenda: The Army Science Board's Summer Study Panel on "Technical Architecture for C4I" will meet to hear briefings on Architecture and Standards. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–10963 Filed 5–5–94; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 23–26 May 1994.

Time of Meeting: 0800–1700, 0900–1700, 0900–1600, 0900–1600 consecutively.

Place: Monterey, CA, San Jose, CA.

Agenda: The Army Science Board's Ad Hoc Subgroup on "Science and Engineering Requirements for Military Officers and Civilian Personnel in the High Tech Army of Today and Tomorrow" will meet on 23 May at the Naval Postgraduate School to receive faculty briefings and discuss science and engineering requirements for Army personnel with faculty and students. On 24 May the group will meet at the Crew Station Research and Development Facility, Ames, NASA to receive advanced technology briefings and discuss their impact on science and engineering requirements for Army personnel. On 25–26 May the group will attend the Association of the United States Army (AUSA) Symposium and Exhibition to gather further information on advanced technologies and science and engineering requirements for Army personnel.

This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Herbert J. Gallagher,

COL, GS, Executive Secretary.

[FR Doc. 94–11064 Filed 5–5–94; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Availability of Draft Environmental Impact Statement (DEIS) for the Proposed Anacostia River and Tributaries, District of Columbia and Maryland Feasibility Study

AGENCY: U.S. Army Corps of Engineers, Baltimore District, DOD.

ACTION: Notice of availability.

SUMMARY: The Baltimore District of U.S. Army Corps of Engineers investigated the feasibility of construction of fish and wildlife restoration measures in the Anacostia River basin. The District Engineer recommends the restoration of 80 acres of wetlands, t miles of streams and 33 acres of bottomland habitat. The feasibility study of the potential restoration actions was conducted under authority of a U.S. House of Representatives Committee on Public Works and Transportation resolution adopted September 8, 1988. The non-Federal sponsors for the feasibility phase of the project are: Montgomery County, Prince Georges County, the District of Columbia, the State of Maryland, the Interstate Commission on the Potomac River Basin, and the Metropolitan Washington Counsel of Governments.

DATES: Written comments must be submitted by June 5, 1994.

ADDRESSES: Send comments to: Colonel J. Richard Capa, District Engineer, P.O. Box 1715, Attn: CENAB–PL–PR, Baltimore, Maryland 21203–1715.

FOR FURTHER INFORMATION CONTACT:

Mr. Marak McKevitt, Study Manager, (410) 962–2650.

SUPPLEMENTARY INFORMATION:

1. The U.S. House of Representatives, Committee on Public Works and Transportation, authorized the Anacostia River and Tributaries study in a resolution adopted on September 8, 1988. The resolution requested the Corps of Engineers to determine if further improvements for flood control, navigation, erosion, sedimentation, water quality and other related water resources needs are advisable on the Anacostia River and Tributaries.

2. The Anacostia River basin is a 170-square-mile sub-basin of the Potomac River. Headwaters of the Anacostia River are in the Piedmont and coastal plain areas of Montgomery and Prince Georges Counties, Maryland and it joins with the Potomac River in the District of Columbia. The entire river system is freshwater; although, the total tidal influence extends for approximately 9 miles above the confluence with the Potomac River.

3. The Corps of Engineers involvement in the basin dates back more than 115 years and includes projects and programs for navigation, flood control, debris removal and aquatic vegatation control. These Federal actions have served their intended purposes well and have benefited the area in terms of improved navigation and reduced flood damage. However, from 1902 through the 1960s, project construction eliminated approximately 2,600 acres of wetlands, 99,000 linear feet of aquatic habitat and 700 acres of bottomland hardwoods. These ecosystems performed numerous beneficial ecological functions for the Anacostia basin and the associated Potomac River and Chesapeake Bay. One of the primary functions of these ecosystems is fish and wildlife habitat. Historically, the Anacostia River basin contained a diverse assemblage of fish and wildlife species. However, populations of many species have sharply declined due to the habitat loss and degradation in the Anacostia basin.

Site	Action	Target stream	Location
Wetland Restoration			
Kingman Lake	WR	Anacostia River	Washington, DC.
River Fringe Wetlands	WR	Anacostia River	Washington, DC.
Fordham Street Wetland	WR	Northwest Branch	Prince George's Co.
Aquatic Restoration			
NW Branch-PG Co	SR	Northwest Branch	Prince George's Co.
Tanglewood Retrofit	WR/SM/SR	Little Paint Branch	Montgomery Co.
Snowden's Mill I	WR/SM/SR	Paint Branch	Montgomery Co.

Site	Action	Target stream	Location
Snowden's Mill II	WR/SM/SR	Paint Branch	Montgomery Co.
Stewart/April Lane	WR/SM/SR	Paint Branch	Montgomery Co.
Lockridge Drive	WR/SM/SR	Northwest Branch	Montgomery Co.
Gum Springs	SR	Gum Springs	Montgomery Co.
Sligo Creek	SR	Sligo Creek	Montgomery Co.
NW Branch-Mont. Co. Paint Branch	SR	Paint Branch	Montgomery Co.

*WR—Wetland Restoration.
SM—Stormwater Management.
SR—Stream Restoration.

5. The Baltimore District has prepared a DEIS which describes the impacts of the proposed projects on environmental and cultural resources in the study area and the overall public interest. The DEIS also apply guidelines issued by the Environmental Protection Agency, under authority of Section 404 of the Clean Water Act of 1977 (Pub. L. 95–217). An evaluation of the proposed actions on the waters of the United States was performed pursuant to the guidelines of the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. The Section 404(b)(1) evaluations show that the proposed actions meet all guidelines under the Clean Water Act, and an exemption under Section 404(r) of Public Law 92–500, as amended is therefore requested.

6. The public involvement included meetings and close coordination with interested private individuals and organizations, as well as concerned Federal, state and local agencies. A public notice requesting comments on the proposed project and DE is being provided to appropriate agencies and the public through printed media and mailings. The Baltimore District invites potentially affected Federal, state and local agencies, and other interested organizations and parties to comment on the study recommendations. Agencies that are currently involved in the feasibility study and EIS process include, but are not limited to the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Geological Service, U.S. Soil Conservation Service, National Park Service, National Capital Planning Commission, Montgomery County Department of Environmental Protection, Prince George's County Department of Environmental Resources, District of Columbia Department of Consumer and Regulatory Affairs and Department of Public Works, Maryland Department of Natural Resources, Maryland Department of the Environment, Maryland National Capital Park and Planning Commission, Interstate Commission on the Potomac River Basin, and the Metropolitan Washington Council of Governments.

7. In accordance with the National Environmental Policy Act (NEPA) and the Clean Water Act, the Corps of Engineers is soliciting comments from the public, Federal, state and local agencies and officials, and other interested parties. Any comments received will be considered by the Corps of Engineers in the decision to implement the projects. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other interest factors listed above. Comments are also used to determine the overall public interest and the need for a public hearing on the proposed activities. This public notice is being sent to organizations and individuals known to have an interest in the restoration of the Anacostia River basin. Please bring this notice to the attention of any other individuals with an interest in this matter.

8. Any person who has an interest in the proposed projects may make comments and/or request a public hearing. Comments must clearly set forth the interest which may be adversely affected by these activities and the manner in which the interest may be adversely affected. Copies of the DEIS are available upon request. Written comments must be submitted within 30 calendar days of the date of the notice in the **Federal Register.**

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–10911 Filed 5–5–94; 8:45 am]

BILLING CODE 3710–08–M

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 will meet on May 18 and 19, 1994. The meeting will be held at the Naval Air Warfare Center, Weapons Division, China Lake, California. The meeting will commence at 8 a.m. and terminate at 6 p.m. on May 18; and commence at 8 a.m. and terminate at 4 p.m. on May 19, 1994. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the Committee related to airborne tactical weapons systems, naval surface missile systems, tactical and strategic deterrent weapons, and research, design, development, test and evaluation and support throughout the weapons system life cycle. The agenda will consist of briefings, discussions and demonstrations on weapons system support, test and evaluation, modeling and simulation technology, core capabilities, composites fabrication, energetic materials, ordnance, and propulsion, antenna research, and the science and technology process. These briefings, discussions and demonstrations 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.

This notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the **Federal Register** at least 15 days before the date of the meeting.

For further information concerning this meeting contact: Commander Richard C. Lewis, USN, Office of Naval Research, 800 North Quincy Street,

Arlington, VA 22217–5000, Telephone Number: (703) 696–4870.

Dated: May 3, 1994.

Lewis T. Booker, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–11086 Filed 5–5–94; 8:45 am]

BILLING CODE 3810–AE–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF93–129–001]

Syracuse Power Co.

May 2, 1994.

On April 6, 1994, the Commission issued a notice of petition to intervene and motion to revoke self-certification (notice), in the above-docketed proceeding. The notice was published in the **Federal Register** on April 12, 1994 (59 FR 17365), making the due date for comments May 12, 1994. By this notice, the date for the filing of comments or protests is shortened to and including May 6, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10901 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–215–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

May 2, 1994.

Take notice that on April 28, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of May 1, 1994:

Original Sheet No. 94D
Ninth Revised Sheet No. 20A

Algonquin states that the purpose of this filing is to update the portion of balance in Algonquin's Account No. 186 attributable to Algonquin's former transportation and compression tracker to reflect a refund from an upstream transporter.

Algonquin requests that the Commission Waive § 154.22 of the Commission's regulations to the extent that may be necessary to place this tariff sheet into effect as requested.

Albonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 9, 1994. 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10903 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–214–000]

Black Marlin Pipeline Co; Petition for Waiver

May 2, 1994.

Take notice that on April 15, 1994, Black Marlin Pipeline Company (Black Marlin) filed a request for waiver of the Commission's requirements in Docket No. RM93–4–000 Standards for Electronic Bulletin Boards (EBB) Required Under Part 284 of the Commission's Regulations (Order No. 563) issued December 23, 1993.

Black Marlin states that its customers have indicated that the additional costs of the standards required in Order No. 563 are unwarranted with the extremely low transaction volume on Black Marlin's EBB. Therefore, Black Marlin request waiver of the Commission's requirements of the order effective June 1, 1994.

Black Marlin states that copies of the filing have been served to all Black Marlin's EBB subscribers and to all firm transportation customers.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All such motions or protests should be filed on or before May 9, 1994. 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. 94–10904 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–213–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 2, 1994.

Take notice that on April 26, 1994, CNG Transmission Corporation (CNG), filed for inclusion in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of July 1, 1994:

Original Sheet No. 31
Original Sheet Nos. 200–209
1st Revised Sheet Nos. 308, 309, 346, and 349
Original Sheet Nos. 439–444
Sheet Nos. 27,210, and 443

CNG states that the tariff sheets contain proposed Rate Schedule MCS—Market Center Services, and a form of service agreement applicable to service under Rate Schedule MCS.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All such motions or protests should be filed on or before May 9, 1994. 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. 94–10905 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–205–001]

Koch Gateway Pipeline Co; Proposed Changes in FERC Gas Tariff

May 2, 1994.

Take notice that on April 28, 1994, Koch Gateway Pipeline Company (Koch Gateway) tendered for as part of its FERC Gas Tariff, Fifth Revised Volume

No. 1, the following tariff sheets to be effective April 1, 1994:

First Revised Original Sheet No. 25
First Revised Original Sheet No. 26
First Revised Original Sheet No. 404
First Revised Original Sheet No. 503

Koch Gateway states that the above referenced tariff sheets reflect Koch Gateway's compliance with the Commission's March 31, 1994 Order granting Koch Gateway's application to charge market-based storage rates and removing refund condition. Koch Gateway states that these tariff sheets reflect modifications to the tariff sheets approved in this docket by the March 31, 1994 order to reflect language previously accepted in Koch Gateway's restructuring proceeding.

Koch Gateway also states that the tariff sheets are being mailed to all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's regulations. All such protests should be filed on or before May 9, 1994. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10906 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–379–000]

Northwest Pipeline Corp.; Request Under Blanket Authorization

May 2, 1994.

Take notice that on April 26, 1994, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP94–379–000 a request pursuant to § 157.205 of the Commission's Regulations to partially abandon existing facilities and to construct and operate replacement facilities at the Genesee Meter Station in Whitman County, Washington to maintain the ability to accommodate its existing firm maximum daily delivery obligations (MDDO) to The Washington Water Power Company (Water Power), a local distribution company, under Northwest's blanket certificate issued in Docket No. CP82–433–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to replace a two-inch positive displacement meter at the Genesee Meter Station in Whitman County, Washington with a two-inch Roots meter which will decrease the maximum design delivery capacity of the station from 350 dth per day to approximately 185 dth per day at 150 psig. Northwest states that the smaller design capacity would be adequate to deliver the current MDDO of 128 dth per day at this point. Northwest states that the estimated cost of replacing the facilities at the Genesee Meter Station is $30,440, including the $2,622 cost of removing the retired facilities. Northwest indicates that since it initiated this project to replace obsolete equipment, Northwest would not require any cost reimbursement from Water Power.

Further, Northwest states that no significant impact on Northwest's peak day or annual deliveries is projected from the proposed facility replacement. Northwest's tariff does not prohibit the modification of delivery point facilities and any volumes delivered to the Genesee delivery point would be within the authorized entitlements of any shipper.

Any person or the Commission's staff may, within 45 days after 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 not protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10902 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP87–103–015]

Panhandle Eastern Pipe Line Company; Refund

May 2, 1994.

Take notice that on April 21, 1994, Panhandle Eastern Pipe Line Company (Panhandle) as required by Ordering Paragraphs (C) and (D) of the Commission's Order on Remand issued on March 22, 1994 filed its refund report. 66 FERC ¶61,329 (1994).

Panhandle states that it is refunding to Western Resources, Inc. (formerly Kansas Power & Light Co.) (Western) amounts collected for Rate Schedule T–53 forward haul and backhaul services rendered during the period March 1, 1988, to March 31, 1989, that exceeded the pre-existing rates.

Accordingly, this report reflects the calculation of refulds to be paid to Western, under the Commission's Order on Remand, as well as the recalculation of the Docket No. RP87–103–000 refund amounts to other customers and the determination of the amounts to be billed to Panhandle's customers as a result of the Commission Order on Remand and as permitted by the Settlement filed March 22, 1990, in this docket.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before May 9, 1994. 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. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10908 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–768–000]

Public Service Company of Oklahoma; Filing

May 2, 1994.

Take notice that on April 25, 1994, Public Service Company of Oklahoma (PSO) amended its July 2, 1993, filing by submission of revised Service Schedules for the sale of general purpose energy and short term power and a revised purchase and resale adder under the Amended Interconnection Agreement, dated April 2, 1993, between Public Service Company of Oklahoma and The Empire District Electric Company. PSO also submitted revised cost data in support of the amended rates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 12, 1994. 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. 94–10909 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–125–003]

Texas Gas Transmission Corp.; Proposed Changes In FERC Gas Tariff

May 2, 1994.

Take notice that on April 26, 1994, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of March 3, 1994:

Second Substitute First Revised Sheet No. 224
Second Substitute First Revised Sheet No. 225
Second Substitute First Revised Sheet No. 226
Substitute Original Sheet No. 226A
Substitute Original Sheet No. 226B
Substitute Original Sheet No. 226C

Texas Gas states that the revised tariff sheets are being filed in response to two (2) Commission Orders issued April 14, 1994, in Docket Nos. RP94–125–002 and RS92–24–015, which directed Texas Gas to revise Section 33.2 of its tariff to use the twelve months ending October 31, 1992, for purposes of establishing customer allocation percentages for the commodity portion of the PGA direct bill and to use demand determinants as of October 31, 1992, annualized, as appropriate, for the demand portion of the direct bill. Texas Gas also states that the tariff sheets listed above restate allocation factors and amounts to be billed as directed by the Commission.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's affected jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before May 9, 1994. 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. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10907 Filed 5–5–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4711–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 18, 1994 Through April 22, 1994 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 **Federal Register** dated April 8, 1994 (59 FR 16807).

Draft EISs

ERP No. D–UAF–K11052–CA Rating EC2, Travis Air Force Base, Defense Base Closure and Realignment, KC–10 Aircraft Realignment and Additional KC–10 Basing Proposal, Fairfield, CA.

Summary: EPA expressed environmental concerns and requested that the FEIS contain greater discussion concerning air quality impacts, air quality conformity, wetlands delineation, and hazardous waste issues. EPA recommended that the Air Force develop additional alternatives for analysis in the FEIS.

Final EISs

ERP No. F–AFS–E65042–TN 1996 Olympic Whitewater Slalom Venue, Construction and Operation, Site Selection, Ocoee River, Cherokee National Forest, Ocoee Ranger District, Polk County, TN.

Summary: EPA found that the preferred alternative for the proposed Whitewater Slalom facilities should not have major impacts on the Ocoee River watershed or airshed.

Dated: May 3, 1994.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 94–10977 Filed 5–5–94; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4710–9]

Environmental Impact Statements; Notice of Availability

Note: Due to the holiday for President Nixon's funeral the notice of availability for environmental impact statements filed during the Week of April 18, 1994 through April 22, 1994 was not published until May 2, 1994. The 45 and 30 day comment periods will still be calculated from April 29, 1994.

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed April 25, 1994 Through April 29, 1994 Pursuant to 40 CFR 1506.9.

EIS No. 940159, FINAL EIS, APH, Nationwide Cooperative Animal Damage Control Program, Integrated Pest Management Approach, Implementation, Due: June 06, 1994, Contact: Richard Wadleigh (301) 436–8281.

EIS No. 940160, FINAL EIS, FHW, WI, US–53/Hastings Way Study Corridor Transportation Improvement, I–94 to US 53/WI–124 Interchange, Funding and Possible Section 404 Permit, Eau Claire and Chippewa Rivers, Eau Claire and Chippewa Counties, WI, Due: June 13, 1994, Contact: Richard C. Madrzak (608) 264–5968.

EIS No. 940161, DRAFT EIS, FHW, VA, VA–37 Highway Transportation Improvement, Construction from VA–37/I–81/US–11 (south) to VA–37/US–11 (north), Funding and COE Section 404 Permit, City of Winchester, Frederick County, VA, Due: June 24, 1994, Contact: James M. Tumlin (804) 771–2371.

EIS No. 940162, DRAFT EIS, FHW, MI, US–2/141 Alternate Highway, Construction in the vicinity of City of Iron Mountain, Funding, NPDES Permit and COE Section 404 Permit, Dickinson County, MI, Due: June 20, 1994, Contact: Norman R. Stoner (517) 377–1880.

EIS No. 940163, DRAFT EIS, FHW, AK, Sterling Highway (Miles Post 37–60) Transportation Project, Reconstruction between Skilak Lake Road (east) and the Seward Wye, Funding, COE Section 10 and 404 Permits, NPDES Permit, Special-Use

Permit and US Coast Guard Permit, AK, Due: June 20, 1994, Contact: Phillip A. Smith (907) 586–7428.

EIS No. 940164, FINAL EIS, APH, NY, Gull Hazard Reduction Program, John F. Kennedy International Airport, Implementation, Gateway National Recreation Area, Jamaica Bay National Wildlife Refuge, Queens County, NY, Due: May 19, 1994, Contact: Janet Bucknall (908) 735–5654. Under section 1506.10(d) of the Council on Environmental Quality Regulations For Implementing the Procedural Provisions of the National Environmental Policy Act a Waiver has been granted for the above project.

EIS No. 940165, DRAFT EIS, NOA, Western 1995 Atlantic Bluefin Tuna Fishery, Regulation Amendment, Implementation, Due: September 01, 1994, Contact: Rolland A. Schmitten (301) 713–2239.

Amended Notices

EIS No. 940059, DRAFT EIS, FHW, MT, US 93 (Somers to Whitefish West) Transportation Improvements, Funding and COE Section 404 Permit, Glacier National Park and Flathead National Forest, Flathead County, MT, Due: May 16, 1994, Contact: Dale Paulson (406) 449–5305. Published FR 02–25–94 - Review period extended.

EIS No. 940093, FINAL EIS, COE, LA, MS, West Pearl River Navigation Project, Operation and Maintenance, Portions of West Pearl River to the vicinity of Bagalusa, Implementation, Washington and St. Tammany Parishes, LA and Pearl River County, MS, Due: May 31, 1994, Contact: Gary Young (601) 631–5960. Published FR –03–25–94– Review period extended.

Dated: May 3, 1994.

Richard E. Sanderson,

Director Office of Federal Activities.

[FR Doc. 94–10978 Filed 5–5–94; 8:45 am]

BILLING CODE 6560–50–U

[FRL–4882–7]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing a meeting of the Ozone Transport Commission to be held on May 10, 1994.

This meeting is for the Transport Commission to deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on May 10, 1994, 9 a.m. to 4 p.m.

ADDRESSES: Place: The meeting will be held at: The Holiday Inn at University Center, 100 Lytton Avenue, Pittsburgh, PA 15213.

FOR FURTHER INFORMATION CONTACT: Doug Gutro State Relations Coordinator, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02203, (617) 565–3383.

FOR PRESS INQUIRIES CONTACT: Pam DiSalvo, Pennsylvania Department of Environmental Resources, MSSOB, 16th Floor, Box 2063, Harrisburg, PA 17105–2063, (717) 787–1323.

FOR DOCUMENTS CONTACT: Stephanie A. Cooper, Ozone Transport Commission, 444 North Capitol Street NW., suite 604, Washington, DC 20001, (202) 508–3840.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at section 184 provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the Commission in New York City on May 7, 1991. The purpose of the Transport Commission is to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this Commission will meet on May 10, 1994. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of Transport Commissions are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

TYPE OF MEETING: Open.

AGENDA: Copies of the final agenda will be available from Stephanie Cooper of the OTC office (202) 508–3840 on Tuesday, May 3, 1994. The purpose of the meeting is to receive reports from its committees, particularly on the Low Emission Vehicle program and control measures being studied for the November 15, 1994 State Implementation Plan revisions.

John DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 94–10976 Filed 5–5–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

May 4, 1994.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: None.

Title: Section 76.970, Commercial leased access rates.

Action: Extension of expiration date of a currently approved collection without any change in the substance or in the method of collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 62,000 responses; 9 hours average burden per response; 278,000 hours total annual burden.

Needs and Uses: "Cable television, rates, leased access" Section 76.970 requires cable operators to calculate the maximum reasonable rates for each rate classification annually and to provide a schedule of rates upon request. Cable operators must also maintain sufficient supporting documentation to justify scheduled rates.

OMB Number: None.

Title: Section 76.917, Notification of certification withdrawal.

Action: New collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirements.

Estimated Annual burden: 25 responses; 0.5 hours average burden per response; 13 hours total.

Needs and Uses: "Cable television, franchise authority, rates" Section 76.917 requires a franchise authority that has been certified to regulate rates to notify the Commission if it no longer intends to regulate basic cable rates.

OMB Number: None.

Title: Section 76.923, Rates for equipment and installation used to receive the basic service tier.

Action: New collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Responses: On occasion reporting requirement.

Estimated Annual Burden: 31,000 responses; 5 hours average burden per response; 155,000 hours total annual burden.

Needs and Uses: "Cable television, rates, records (documents)" Section 76.923 requires cable operators to maintain adequate documentation to demonstrate that charges for the sale and lease of equipment and for installations have been developed in conjunction with FCC rules. The data is used by cable operators to justify rates for equipment and installations.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–11118 Filed 5–5–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks).

Form Number: FFIEC 031, 032, 033, 034.

OMB Number: 3064–0052.

Expiration Date of OMB Clearance: July 31, 1994.

Respondents: Insured state nonmember commercial and savings banks.

Frequency of Response: Quarterly.

Number of Respondents: 7,310.

Number of Responses Per Respondent: 4.

Total Annual Responses: 29,240.

Average Number of Hours Per Response: 26.28.

Total Annual Burden Hours: 768,374.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0052, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Wsahington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before [insert 60 days after date of publication in the **Federal Register**].

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Consolidated Reports of Condition and Income (Call Reports) are filed quarterly by insured state nonmember commercial banks and savings banks for use by the FDIC in monitoring the financial condition of reporting banks and the industry as a whole. The reports are available to the public.

Dated: May 2, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–10886 Filed 5–5–94; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Salinas International Freight Co., 102 Decker Court #150, Irving, TX 75062, Officers: Gilbert Raymond Khoury, President, Francesca Johnson, Vice President

Hancock International Corporation, 702 W. Rosevelt Rd., #A5, Wheaton, IL 60187, Officer: Nathan A. Hancock, President/Stockholder

Profreight Brokers, Inc., 177–14 149th Road, Jamaica, NY 11434, Officers: Monika Munro, President/Director/Stockholder, Alastair Blair Munro, Secretary/Treasurer/Director

Export of International Appliances, Inc., 8820 Monard Drive, Silver Spring, MD 20910, Officers: Naresh Chand Jain, President, Bhadresh R. Dhilla, C.E.O.

Hi-Tech Air Shipping, Inc., 7006 NW 46th Street, Miami, FL 33166, Officers: Robert E. Booth, President, Fiorella Booth, General Manager

Serv Pak International, Inc., 1331 Royal Lane, Dallas, TX 75261, Officers: Rolanda Sue Whelpley, President/Treasurer, Sharon Ellershaw, Executive Vice President, Marsha K. West, Secretary

Combined Transport Services Inc., 16,234 42nd Ave., South, Seattle, WA 98188, Officers: Paul Newcombe, President/Director, Jal Dinshaw, Executive Vice President/Director, Eduardo Lopes, Vice President/Director, Donna Swaw, Corp. Financial Manager/Director

S.Q. Unlimited Transportation Services, Inc., dba S.Q. Ocean Services, 1040 Industry Drive, Seattle, WA 98188, Officers: Susan Lee Beecher, President/Stockholder, Jacques Elizabeth Lassoie, Stockholder

Mundi Export, Inc., dba Mundi Cargo Services, S.A., 7220 N.W. 36th Street, #629, Miami, FL 33166, Officers: Cesar A. Baez, President, Rafael E. Salas, Vice President

Pegasus Freight Services, Inc., 18439 Viscount Road, Houston, TX 77032, Officers: Debra A. Capko, President/Treasurer/Stockholder, David S. Hall, Vice President/Secretary

Caraval, Inc., 1120 S.W. 86th Court, Miami, FL 33144, Officer: Leslie Diaz, President/Director

Anthony Naimoli, 12 Sylvia Lane, Plainview, NY 11803, Sole Proprietor

International Transportation Network Inc., 254 Orangeburg Road, Old

Tappan, NJ 07675, Officer: Steven R. Goodglass, Director/President

Anthem Express World Transportation Inc., St 1 No. 2, Ste. 304, Metro Office Park, Guaynabo, PR 00968–1705, Officers: Anthony Emposimato, President, Tracey Emposimato, Secretary, Leopoldo Melendez, Vice President, John J. Powers, Vice President

World Asia Freight Systems, Inc., 1065 Sneath Lane, San Bruno, CA 94066, Officer: Harrison Park, President

Quad City Port Services, Inc., dba Central Iowa Port Services, 985 Lincoln Road, #219, Bettendorf, IA 52722, Officers: Richard R. Weeks, President, Linda H. Weeks, Secretary/Treasurer, Wendy K. Weeks, Vice President, Cheryl A. Burlage, Vice President.

Dated: May 2, 1994.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 94–10892 Filed 5–5–94: 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

BankAmerica Corporation, San Francisco, California; Application To Engage in Nonbanking Activities

BankAmerica Corporation, San Francisco, California (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through BA Futures, Inc., Chicago, Illinois (Company), a futures commission merchant registered under the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), in executing and clearing, and clearing without executing the following contracts on the following exchanges: Light Sweet Crude Oil Futures, Options on Light Sweet Crude Oil Futures, No. 2 Heating Oil Futures and Options on No. 2 Heating Oil Futures on the New York Mercantile Exchange; Corn Futures, Options on Corn Futures, Wheat Futures, Options on Wheat Futures, Soybean Futures and Options on Soybean Futures on the Chicago Board of Trade; and Live Cattle Futures, Options on Live Cattle Futures, Feeder Cattle Futures, Options on Feeder Cattle Futures, Live Hog Futures and Options on Live Hog Futures on the Chicago Mercantile Exchange. Applicant proposes to conduct these activities throughout the world.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the closely related to banking test if it is demonstrated that banks have generally provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806, January 5, (1984).

The Board previously has approved acting as a futures commission merchant in executing and clearing the proposed commodity contracts. *See* Bank of Montreal, 79 Federal Reserve Bulletin 1049 (1993); *J.P. Morgan & Co. Incorporated*, 80 Federal Reserve Bulletin 151 (1994)(*J.P. Morgan*). The Board also previously has approved providing a combination of advisory services regarding nonfinancial commodity derivatives and acting as a futures commission merchant in the execution and clearance of these derivatives. *J.P. Morgan.*

Applicant proposes to conduct the proposed activities in a manner that differs slightly from what previously has been approved by the Board. Specifically, in *J.P. Morgan* the Board conditioned approval of the application on J.P. Morgan's commitment that it would not perform execution, clearance or investment advisory services for commodity funds (or commodity pools) owned, sponsored by, or otherwise affiliated with, J.P. Morgan. In contrast, Applicant proposes that Company's customers would include a managed commodity fund formed outside of the United States, sponsored by an affiliate of Applicant.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 23, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, May 2, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–10921 Filed 5–5–94; 8:45 am]

BILLING CODE 6210–01–F

FNB Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the

Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 31, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. FNB Corp., Asheboro, North Carolina; to acquire 100 percent of the voting shares of Home Savings Bank of Siler City, SSB, Siler City, North Carolina.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin and Firstar Corporation of Wisconsin; to acquire 100 percent of the voting shares of First Southeast Banking Corp., Lake Geneva, Wisconsin, and thereby indirectly acquire First Bank Southeast, N.A., Milwaukee, Wisconsin and First Bank Southeast of Lake Geneva, N.A., Lake Geneva, Wisconsin.

Board of Governors of the Federal Reserve System, May 2, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–10922 Filed 5–5–94; 8:45 am]

BILLING CODE 6210–01–F

Mainline Bankshares of Portland, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 26, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mainline Bankshares of Portland, Inc., Portland, Arkansas; to engage *de novo* in conducting lending activities as permitted by § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 2, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–10923 Filed 5–5–94; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 922 3170]

AJM Packaging Corporation, et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Michigan seller of disposable paper plates and its president from representing that any product it sells offers any environmental benefit unless it can substantiate the claim, or from misrepresenting that any paper product or package is capable of being recycled, or the extent to which recycling collection programs for them are available.

DATES: Comments must be received on or before July 5, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Mary Engle, FTC/H–476, Washington, DC 20580. (202) 326–3161.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

AJM Packaging Corporation, a Corporation, and Abram Epstein, Individually and as Officer of Said Corporation; Agreement Containing Consent Order To Cease and Desist

[File No. 922 3170]

The Federal Trade Commission having initiated an investigation of certain acts and practices of AJM Packaging Corporation, a corporation, and Abram Epstein, individually and as officer of said corporation ("proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between AJM Packaging Corporation, and Abram Epstein, by their duly authorized officer and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent AJM Packaging Corporation is a Michigan corporation with its office and principal place of business at 6910 Dix Avenue, Detroit, Michigan 48209.

Proposed respondent Abram Epstein is the president of said corporation. In his capacity as president, he formulates, directs, and controls the acts and practices of said corporation, and his business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint, or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

For purposes of this Order, the following definition shall apply: "Product or package" means any product or package, including but not limited to bags and plates, that is offered for sale, sold, or distributed to the public by respondents, their successors and assigns, under the "Nature's Own Green Label" brand name or any other brand name of respondents, their successors and assigns; and also means any such product or package sold or distributed to the public by third parties under private labeling agreements with respondents, their successors and assigns.

I

It is ordered that respondents AJM Packaging Corporation, a corporation, its successors and assigns, and its officers, and Abram Epstein, individually and as officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any paper product or package, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication:

(1) That any such product or package is degradable, biodegradable, or photodegradable; or,

(2) Through the use of such terms as degradable, biogradable, photodegradable, or any other substantially similar term or expression, that the degradability of any such product or package offers any environmental benefit when disposed of as trash that is ordinarily buried in a sanitary landfill,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this Order, competent and reliable scientific evidence shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

II

It is further ordered that respondents AJM Packaging Corporation, a corporation, its successors and assigns, and its officers, and Abram Epstein, individually and as officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any paper product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which any such paper product or package is capable of being recycled or the extent to which recycling collection programs for such product or package are available.

III

It is further ordered that respondents AJM Packaging Corporation, a corporation, its successors and assigns, and its officers, and Abram Epstein, individually and as officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any such product or package offers any environmental benefit, unless, at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

IV

It is further ordered that respondents may continue to deplete their existing inventory of "Penthouse" brand paper

plates product packaging in the normal course of business without violating this Order until October 31, 1993.

V

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All test reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation or the basis relied upon for such representation, including complaints from consumers.

VI

It is further ordered that respondent AJM Packaging Corporation shall distribute a copy of this Order within sixty (60) days after service of this Order upon it to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation of labeling and advertising and placement of newspaper, periodical, broadcast, and cable advertisements covered by this Order.

VII

It is further ordered that the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five (5) years from the service date of this Order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities relate to the manufacture, sale, or distribution of paper products, or of his affiliation with a new business or employment in which his own duties and responsibilities relate to the manufacture, sale, or distribution of paper products. When so required under this paragraph, each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which such respondent is newly engaged, as well as a description of such respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VIII

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

It is further ordered that respondents shall, within sixty (60) days after service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents AJM Packaging Corporation, a Michigan corporation, and Abram Epstein, an officer of said corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the agreement's proposed order.

This matter concerns the package labeling of "Nature's Own Green Label" disposable paper plates. The Commission's complaint in this matter charges that respondents' labeling falsely represented that "Nature's Own Green Label" disposable paper plates are recyclable after ordinary use. In fact, the complaint alleges, while "Nature's Own Green Label" disposable paper plates are capable of being recycled, the vast majority of consumers cannot recycle the product because there are virtually no collection facilities that accept used paper plates for recycling. The complaint further charges that the respondents' labeling contained unsubstantiated representations concerning the plates' alleged degradability and the environmental benefits that could be obtained when the bags were disposed of as trash that is subsequently buried in a sanitary landfill (customary disposal). The complaint alleges that the respondents represented that "Nature's Own Green Label" disposable paper plates offer a significant environmental benefit when consumers customarily disposed of them, and that "Nature's Own Green Label" disposable paper plates will completely break down, decompose and return to nature—*i.e.*, decompose into elements found in nature—within a reasonably short period of time after customary disposal.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires that the respondents cease representing, in any manner, directly or by implication, that any of their paper products or packages are "degradable," "biodegradable," or "photodegradable," or through the use of such terms or similar terms, that any such product or package offers any environmental benefits when consumers dispose of them as trash that is buried in a sanitary landfill, unless the respondents have competent and reliable scientific evidence to substantiate the representations at the time they are made.

Part II of the proposed order requires that the respondents cease misrepresenting, in any manner, directly or by implication, the extent to which any paper product or package is capable of being recycled or the extent to which recycling collection programs are available.

Part III of the proposed order requires the respondents to cease representing that their products or packages offer any environmental benefit, unless at the time of making such a representation, the respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representations.

Part IV of the proposed order permitted the respondents to deplete their existing inventory of certain paper plate product packaging in the normal course of business without violating the order until October 31, 1993.

The proposed order also requires the respondents to maintain materials relied upon to substantiate the claims covered by the order, to distribute copies of the order to certain company officials, to notify the Commission of any changes in corporate structure that might affect compliance with the order, to notify the Commission of any changes in the business or employment of the named individual respondent, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–10943 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. 9234]

Adventist Health System/West, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This final order dismisses a lawsuit challenging the acquisition of Ukiah General Hospital by Adventist Health System/West in Ukiah, California. According to the Commission decision, the evidence did not support the relevant geographic markets alleged in the complaint, which were limited to specific areas of California.

DATES: Complaint issued November 7, 1989. Final order issued April 1, 1994.[1]

FOR FURTHER INFORMATION CONTACT: David Newman or Erika Wodinsky, FTC/San Francisco Regional Office, 901 Market St., suite 570, San Francisco, CA. 94103. (415) 744–7920.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18)

Donald S. Clark,

Secretary.

[FR Doc. 94–10942 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. 9257]

Del Dotto Enterprises, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based corporation and its officers from making false claims regarding real estate, credit, investments, or business opportunities in the future. In addition, the order prohibits the respondents from misrepresenting that any endorsement for a product or service represents the typical or ordinary experience of previous users, and from representing that any advertisement is not paid advertising.

DATES: Complaint issued April 19, 1993. Order issued April 21, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Chris Couillou or Andrea Foster, FTC/Atlanta Regional Office, 1718 Peachtree St. NW., room 1000, Atlanta, GA. 30367. (404) 347–4837.

SUPPLEMENTARY INFORMATION: On Tuesday, November 9, 1993, there was published in the **Federal Register**, 58 FR 59473, a proposed consent agreement with analysis In the Matter of Del Dotto Enterprises, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–10945 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[Docket C–3482]

The Hairbow Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the California-based corporations and officers, who purported to sell hairbow kits, from making any material misrepresentations regarding earnings or profits of participants in any work opportunity and from making misrepresentations about the marketplace demand for any product or service for which the respondents are offering a work opportunity. In addition, the order sets a redress payment, however, based upon financial statements submitted by the respondents, the redress payments have been suspended.

DATES: Complaint and Order issued March 17, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Gerald Wright, FTC/San Francisco Regional Office, 901 Market St., suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, January 5, 1994, there was published in the **Federal Register**, 59 FR 577, a proposed consent agreement with analysis In the Matter of The Hairbow Company, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–10946 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[Docket C–3483]

Homespun Products, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the California-based corporations and an officer, who purported to market pillows and Christmas ornaments, from making any material misrepresentations regarding earnings or profits of

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Final Order, and Statement of Commissioners Owen and Yao are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

[1] Copies of the Complaint, and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

participants in any work opportunity and from making misrepresentations about the marketplace demand for any product or service for which the respondents are offering a work opportunity. In addition, the order sets a redress payment, however, based upon financial statements submitted by the respondents, the redress payments have been suspended.

DATES: Complaint and Order issued March 17, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Gerald Wright, FTC/San Francisco Regional Office, 901 Market St., suite 570, San Francisco, CA 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, January 5, 1994, there was published in the **Federal Register**, 59 FR 580, a proposed consent agreement with analysis In the Matter of Homespun Products, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–10947 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 912 3364]

LePage's, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Pennsylvania manufacturers of glues and adhesive tapes from misrepresenting that any product or package is capable of being recycled, or the extent to which recycling collection programs are available for such products, and from making unsubstantiated claims that its products or packages are degradable, biodegradable or photodegradable, or that their degradability offers any environmental benefit when disposed of as trash in a sanitary landfill.

DATES: Comments must be received on or before July 5, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, DC 20580. (202) 326–3158.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

LePage's Inc., a Corporation, and LP Holdings, Inc., a Corporation; Agreement Containing Consent Order To Cease and Desist

[File No. 912 3364]

The Federal Trade Commission having initiated an investigation of certain acts and practices of proposed respondents LePage's, Inc., a corporation, and LP Holdings, Inc., a corporation, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between LePage's, Inc. and LP Holdings, Inc., by their duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent LePage's, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania.

Proposed respondent LP Holdings, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. It dominates and controls the acts and practices of its wholly-owned subsidiary, LePage's, Inc.

The proposed respondents have their principal offices or places of business at 120 Delta Drive, Pittsburgh, Pennsylvania 15238.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this Order, the following definitions shall apply:

The term "product or package" means any product or package that is offered for sale, sold or distributed to the public by respondents, their successors and assigns, under the LePage's brand name or any other brand name of respondents, their successors and assigns; and also means any product or package sold or distributed to the public by third parties under private labeling agreements with respondents, their successors and assigns.

"Competent and reliable scientific evidence" shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I

It is ordered that respondents, LePage's, Inc., a corporation, and LP Holdings, Inc., a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication:

(1) That any such product or package is degradable, biodegradable, or photodegradable; or,

(2) Through the use of such terms as degradable, biodegradable, or photodegradable or any other similar terms or expression, that any such product or package offers any environmental benefits when consumers dispose or it as trash that is buried in a sanitary landfill,

unless at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

II

A. *It is further ordered* that respondents, LePage's, Inc., a corporation, and LP Holdings, Inc., a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which:

(1) Any such product or package is capable of being recycled; or,

(2) Recycling collection programs for such product or package are available.

B. *Provided,* however, respondents will not be in violation of Part II(A)(2) of this Order, in connection with the advertising, labeling, offering for sale, sale, or distribution of any non-foam polystyrene or any non-corrugated paperboard or cardboard product or package, if they truthfully represent that such product or package is recyclable, provided that:

(1) Respondents disclose clearly, prominently, and in close proximity to such representation:

(a) In regard to any non-foam polystyrene product or package, that such product or package is recyclable in the few communities with recycling collection programs for non-foam polystyrene; and in regard to any non-corrugated paperboard or cardboard product or package, that such product or package is recyclable in the few communities with recycling collection programs for non-corrugated paperboard or cardboard; or

(b) The approximate number of U.S. communities with recycling collection programs for such product or package; or

(c) The approximate percentage of U.S. communities or the U.S. population to which recycling collection programs for such product or package are available; and

(2) In addition, in the case of a non-foam polystyrene product or package, such product or package itself bear a clear identification of the specific plastic resin(s) from which it is made.

For purposes of this provision, a disclosure elsewhere on the product package shall be deemed to be "in close proximity" to such representation if there is a clear and conspicuous cross-reference to the disclosure. The use of an asterisk or other symbol shall not constitute a clear and conspicuous cross-reference. A cross-reference shall be deemed clear and conspicuous if it is of sufficient prominence to be readily noticeable and readable by the prospective purchaser when examining the part of the package on which the representation appears.

III

It is further ordered that respondents, LePage's, Inc., a corporation, and LP Holdings, Inc, a corporation, their successors and assigns, and their officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any such product or package offers any environmental benefit, unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

IV

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that

contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

V

It is further ordered that respondents shall distribute a copy of this Order to each of their operating divisions and to each of their officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order.

VI

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporations such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations under this Order.

VII

It is further ordered that respondents shall, within sixty (60) days after service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents LePage's, Inc., a Pennsylvania corporation, and LP Holdings, Inc., a Delaware corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the agreement's proposed order.

This matter concerns the labeling and advertising of LePage's Biodegradable Transparent Tape. The Commission's complaint in this matter alleges that LePage's Biodegradable Transparent Tape is a cellophane tape made from wood pulp and adhesive material; that the retail tape product is sold with a hard clear non-foam polystyrene plastic dispenser that does not identify the type(s) of plastic resin from which it is made; and that the tape and dispenser are attached to a non-corrugated paperboard or cardboard backcard. The complaint charges that the respondents represented without substantiation that LePage's Biodegradable Transparent Tape will completely break down and return to nature—*i.e.*, decompose into elements found in nature—within a reasonably short period of time after customary disposal and that compared to other transparent tape, LePage's Biodegradable Transparent Tape offers a significant environmental benefit after customary disposal. The complaint further charges that the respondents falsely represented that the plastic tape dispenser and paperboard backcard of LePage's Biodegradable Transparent Tape are recyclable. In fact, the complaint alleges, the plastic tape dispenser and the paperboard package are not recyclable, because there are only a few collection facilities nationwide that will accept the non-foam polystyrene tape dispenser or the non-corrugated paperboard or cardboard backcard for recycling.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires that the respondents cease and desist from representing, in any manner, directly or by implication, that any of their products or packages are degradable, biodegradable, or photodegradable, or more specifically through the use of such terms or similar terms that any such product or package offers any environmental benefits when consumers dispose of it as trash that is buried in a sanitary landfill, unless at the time of making such representation, the respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation.

Part II of the proposed order requires that the respondents cease and desist from misrepresenting, in any manner, directly or by implication, with respect to any product or package the extent to which it is capable of being recycled or to which recycling collection programs are available. Part II also contains a provision that allows the respondents to advertise non-foam polystyrene and non-corrugated paperboard and cardboard products or packages as recyclable without violating Part II of the order. The respondents may do so if they truthfully represent that such products or packages are capable of being recycled; disclose clearly, prominently and in close proximity to such claim (a) that such product or package is recyclable in the few communities with recycling collection programs for non-foam polystyrene or for non-corrugated paperboard or cardborad; or (b) the approximate number of U.S. communities with recycling collection programs for such product or package; or (c) the approximate percentage of U.S. population to which recycling collection programs for such product or package are available; and in addition, in the case of any non-foam polystyrene product or package, such product or package itself bears a clear identification of the specific plastic resin(s) from which it is made.

Part III of the proposed order provides that if the respondents represent in advertising or labeling that any product or package offers any environmental benefit, they must have a reasonable basis consisting of competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claims.

The proposed order also requires the respondents to maintain materials relied upon to substantiate the claims covered by the order, to distribute copies of the order to certain company officials, to notify the Commission of any changes in corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–10944 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3373]

Mia Rose Products, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California-based corporation and its officer from making any representation about the efficacy or performance of any air cleaning, air

freshening, or insecticidal product, unless the respondents possess and rely upon competent and reliable scientific evidence to substantiate the representation.

DATES: Comments must be received on or before July 5, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Linda Badger, FTC/San Francisco Regional Office, 901 Market St., suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Mia Rose Products, Inc., and Mia Palencar ("respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between respondents and by their duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent Mia Rose Products, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California. The principal place of business of this corporation is located at 3555–B Harbor Gateway South, Costa Mesa, California 92626.

Proposed respondent Mia Palencar is an officer of the corporate respondent. She formulates, directs, and controls the acts and practices of the corporate respondent and her address is the same as that of corporate respondent.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft complaint here attached.

6. This agreement contemplates that it it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (a) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the attached draft complaint and the following order. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents Mia Rose Products, Inc., a corporation, its successors and assigns, and its officers, and Mia Palencar, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale or distribution of Air Therapy, Pet Air or any substantially similar product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that:

A. Such product is effective in cleaning or purifying indoor air.

B. Such product is more effective in cleaning or purifying indoor air than conventional air cleaning products.

C. Spraying such product into the air eliminates smoke.

D. Spraying such product into the air eliminates pollen.

E. Spraying such product into the air eliminates airborne bacteria.

F. Spraying such product into the air eliminates household insects.

G. Spraying such product into the air eliminates pet dander.

H. Spraying such product into the air eliminates rather than masks odors.

For the purposes of this Order, "substantially similar product" shall mean any air cleaning or air freshening product which contains d-limonene as its sole active ingredient.

II

It is further ordered that respondents, Mia Rose Products, Inc., a corporation, its successors and assigns, and its officers, and Mia Palencar, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the

manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any air cleaning, air freshening, or insecticidal product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, the efficacy or performance of any such product, unless such representation is true, and at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation. For purposes of this Order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

III

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered that provisions of this Order shall not apply to the printing on cans of Air Therapy or Pet Air which were manufactured prior to September 1, 1993, and shipped by respondents to distributors or retailers prior to four (4) months from the date of issuance of this Order.

V

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution or subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

VI

It is further ordered that the individual respondent shall, for a period of five (5) years after the date of service of this Order upon her, promptly notify the Commission, in writing, of her discontinuance of her present business or employment and of her affiliation with a new business or employment. For each such new affiliation, the notice shall include the name and address of the new business or employment, a statement of the nature of the new business or employment, and a description of respondent's duties and responsibilities in connection with the new business or employment.

VII

It is further ordered that the corporate respondent shall, within ten (10) days from the date of service of this Order upon them, distribute a copy of this Order to each of its officers, agents, representatives, independent contractors, and employees involved in the preparation and placement of advertisements or promotional materials, or is in communication with customers or prospective customers, or who have any responsibilities with respect to the subject matter of this Order; and for a period of five (5) years, from the date of issuance of this Order, distribute a copy of this Order to all of respondent's future such officers, agents, representatives, independent contractors, and employees.

VIII

It is further ordered that respondents shall, within sixty (60) days from the date of service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Mia Rose Products, Inc., a California corporation, and Mia Rose Palencar, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns two products, named "Air Therapy" and "Pet Air," sold by Mia Rose Products, Inc. ("the company"). Air Therapy and Pet Air are air sprays made from the essential oils of citrus fruit and/or herbs. These two products have identical ingredients, and are both sold for their alleged air freshening, air cleaning and insecticidal effects. The Commission's complaint charges that respondents' advertising contained false and unsubstantiated representations that these products are effective in eliminating indoor air pollutants and household insects. Specifically, the complaint alleges that respondents falsely represented that: (1) These products are effective in cleaning or purifying indoor air; (2) these products are more effective in cleaning or purifying indoor air than conventional air cleaning products; (3) spraying these products into the air eliminates smoke; (4) spraying these products into the air eliminates pollen; (5) spraying these products into the air eliminates airborne bacteria; (6) spraying Pet Air into the air eliminates pet dander; (7) spraying Air Therapy into the air eliminates household insects; and (8) spraying these products into the air eliminates, rather than masks, odors.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Part I of the proposed order would prohibit the company from making any of the false claims delineated above for Air Therapy, Pet Air, or any products with substantially similar ingredients.

Part II of the proposed order includes broad fencing-in relief, requiring the respondents to cease and desist from representing the efficacy or performance of any air cleaning, air freshening, or insecticidal product unless such representation is true, and at the time of making such representation, Mia Rose possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Part IV of the proposed order is a provision that allows the company a period of four months from the date the proposed order becomes final before it is obligated to re-word its labeling on its current inventory of Air Therapy and Pet Air cans. All other provisions of the order become effective immediately

upon the Commission's issuance of the order as final.

The proposed order also requires the respondents to maintain materials relied upon to substantiate claims covered by the order; to provide a copy of the consent agreement to all employees or representatives involved in the preparation and placement of the company's advertisements, or in communication with the company's customers or prospective customers; to notify the Commission of any changes in corporate structure that might affect compliance with the order; to notify the Commission of certain changes in the business or employment of the named individual respondent; and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–10948 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3485]

New Mexico Custom Designs, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the New Mexico-based corporation and its officer, who claimed to sell beaded earrings, from making any material misrepresentations regarding earnings or profits of participants in any work opportunity and from making misrepresentations about the marketplace demand for any product or service for which the respondents are offering a work opportunity. In addition, the order sets a redress payment, however, based upon financial statements submitted by the respondents, the redress payments have been suspended.

DATES: Complaint and Order issued March 17, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Gerald Wright, FTC/San Francisco Regional Office, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, January 5, 1994, there was published in the **Federal Register**, 59 FR 582, a proposed consent agreement with analysis In the Matter of New Mexico Custom Designs, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–10949 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3162]

Oak Hill Industries Corp., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a New York manufacturer of plastic tableware from misrepresenting that any product or package is capable of being recycled, or the extent to which recycling collection programs are available for such products, and from making any unsubstantiated representation that any product or package it markets offers any environmental benefit.

DATES: Comments must be received on or before July 5, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, DC 20580. (202) 326–3158.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of: Oak Hill Industries Corp., a corporation, and Malcolm Foster, individually and as an officer of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Oak Hill Industries Corp., a corporation, and Malcolm Foster, individually and as an officer of said corporation ("proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Oak Hill Industries Corp., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Oak Hill Industries Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office or place of business at 330 East 59th Street, New York, NY 10022.

Proposed respondent Malcolm Foster is an officer of said corporation. He formulates, directs, and controls the acts and practices of said corporation. His address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this Order, the following definitions shall apply:

The term *product or package* means any product or package that is offered for sale, sold or distributed to the public by respondents, their successors and assigns, under the Oak Hill brand name or any other brand name of respondents, their successors and assigns; and also means any product or package sold or distributed to the public by third parties under private labeling agreements with respondents, their successors and assigns.

Competent and reliable scientific evidence shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I

A. It is ordered that respondents, Oak Hill Industries Corp., a corporation, its successors and assigns, and its officers, and Malcolm Foster, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the extent to which:

(1) Any such product or package is capable of being recycled; or,

(2) Recycling collection programs for such product or package are available.

B. Provided, however, respondents will not be in violation of part I(A)(2) of this Order, in connection with the advertising, labeling, offering for sale, sale, or distribution of any non-foam polystyrene, polypropylene film, or low-density polyethylene film product or package, if they truthfully represent that such product or package is recyclable, provided that:

(1) Respondents disclose clearly, prominently, and in close proximity to such representation:

(a) In regard to any non-foam polystyrene product or package, that such product or package is recyclable in the few communities with recycling collection programs for non-foam polystyrene; in regard to any polypropylene film product or package, that such product or package is recyclable in the few communities with recycling collection programs for polypropylene film; and in regard to any low-density polyethylene film product or package, that such product or package is recyclable in the few communities with recycling collection programs for low-density polyethylene film; or

(b) The approximate number of U.S. communities with recycling collection programs for such product or package; or

(c) The approximate percentage of U.S. communities or the U.S. population to which recycling collection programs for such product or package are available; and

(2) In addition, such product or package itself bears a clear identification of the specific plastic resin(s) from which it is made.

For purposes of this provision, a disclosure elsewhere on the product package shall be deemed to be "in close proximity" to such representation if there is a clear and conspicuous cross-reference to the disclosure. The use of an asterisk or other symbol shall not constitute a clear and conspicuous cross-reference. A cross-reference shall be deemed clear and conspicuous if it is of sufficient prominence to be readily noticeable and readable by the prospective purchaser when examining the part of the package on which the representation appears.

II

It is further ordered that respondents, Oak Hill Industries Corp., a corporation, its successors and assigns, and its officers, and Malcolm Foster, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any such product or package offers any environmental benefit, unless at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent

and reliable scientific evidence, that substantiates such representation.

III

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered that the corporate respondents shall distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, products, labels or other such sales materials covered by this Order.

V

It is further ordered that the individual respondent shall notify the Commission in the event of the discontinuance of his present business or employment and of each affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this Order, he shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale, distribution, and/or manufacturing of any plastic product or package or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale, distribution, and/or manufacturing of any plastic product or package. Each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which such respondent is newly engaged, as well as a description of such respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VI

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

VII

It is further ordered that respondents shall, within sixty (6) days after service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Oak Hill Industries Corp., a New York corporation, and Malcolm Foster, individually and as an officer of the corporate respondent.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the agreement's proposed order.

This matter concerns the labeling and advertising of Oak Hill brand plastic plates, bowls and utensils. The Commission's complaint in this matter alleges that Oak Hill brand plastic plates, bowls and utensils are made from non-foam polystyrene; that they are packaged in thin plastic packaging which is sometimes made from polypropylene film and at other times from low-density polyethylene film; and that such plastic products and packaging do not identify the type(s) of plastic resin from which they are made. The complaint charges that Oak Hill falsely represented that the plastic plates, bowls and utensils and the plastic film packaging are recyclable. In fact, the complaint alleges, the plastic products and packaging are not recyclable, because there are only a few collection facilities nationwide that will accept non-foam polystyrene plates, bowls or utensils or the polypropylene film or low-density polyethylene film plastic packaging for recycling.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires that respondents cease and desist from misrepresenting, in any manner, directly or by implication, with respect to any product or package the extent to which it is capable of being recycled or to which recycling collection programs are available. Part I also contains a proviso that allows the respondents to advertise non-foam polystyrene, polypropylene film or low-density polyethylene film products or packages as recyclable without violating Part I of the order. The respondents may do so if they truthfully represent that such products or packages are capable of being recycled; disclose clearly, prominently and in close proximity to such claim: (a) That such product or package is recyclable in the few communities with recycling collection programs for non-foam polystyrene, polypropylene film or low-density polyethylene film; or (b) the approximate number of U.S. communities with recycling collection programs for such product or package; or (c) the approximate percentage U.S. communities or the U.S. population to which recycling collection programs for such product or package are available; and in addition, such product or package itself bears a clear identification of the specific plastic resin(s) from which it is made.

Part II of the proposed order provides that if the respondents represent in advertising or labeling that any product or package offers any environmental benefit, they must have a reasonable basis consisting of competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claims.

The proposed order also requires respondents to maintain materials relied upon to substantiate the claims covered by the order, to distribute copies of the order to certain company officials, to notify the Commission of any changes in corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–10950 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3484]

William E. Taylor and Susan L. Taylor, d/b/a Sandcastle Creations; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the Oregon-based respondents, who marketed potholders and mohair for use as doll's hair, from making any material misrepresentations regarding earnings or profits of participants in any work opportunity and from making misrepresentations about the marketplace demand for any product or service for which the respondents are offering a work opportunity. In addition, the order sets a $536,000 redress payment, however, based upon financial statements submitted by the respondents, the order suspends all redress payments, except for a $25,000 payment by the individual respondents in this matter.

DATES: Complaint and Order issued March 17, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Gerald Wright, FTC/San Francisco Regional Office, 901 Market St., suite 570, San Francisco, CA 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Wednesday, January 5, 1994, there was published in the Federal Register, 59 FR 587, a proposed consent agreement with analysis In the Matter of Sandcastle Creations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–10951 Filed 5–5–94; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

SUMMARY: Part K, Chapter K (Administration for Children and Families) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (56 FR 42332) is amended to reflect the changes in Chapter KK, The Office of Financial Management 56 FR 42335 as last amended, August 20, 1993. Specifically, to elevate the Financial and Grants Policy Staff to Division level and revise the functional responsibility of the Division of Discretionary Grants.

The changes are as follows:

1. Amend KK.10 Organization. Delete this section in its entirety and replace it with the following:

KK.10 Organization. The Office of Financial Management (OFM) is headed by a Director who reports to the Director of Program Support and is organized as follows:

Director Office of the Director (KKA)
Division of Financial and Grants Policy (KKB)
Division of Budget and Finance (KKC)
Division of Formula, Entitlement, and Block Grants (KKD)
Division of Discretionary Grants (KKE)
Division of Audit Resolution and Grant Oversight (KKF)

2. Amend KK.20 Functions. Delete paragraph B in its entirety and replace it with the following:

B. The Division of Financial and Grants Policy provides management and direction of ACF financial and grants policy activities as they relate to ACF mandatory and discretionary grants programs. Provides expert guidance on financial and grants management policy issues to ACF program and staff components in headquarters and regional offices as well as to external entities such as grantees and officials of other Federal agencies. Maintains liaison and coordination with appropriate HHS organizations to ensure consistency with Departmental financial and grants management policies and procedures. Advises the Director of the Office of Financial Management, the Assistant Secretary of ACF, Program Office Heads and Regional Administrators on significant financial and grants policy initiatives and issues.

The Division is responsible for: development and interpretation of financial and grants policy for programs and activities administered by ACF; prepares, coordinates and disseminates action transmittals, information memoranda, and other policy guidance on financial and grants management policy issues; analyzes pending legislation and proposed program or grants regulations to determine financial and/or grants policy implications; reviews policy inquiries and prepares and disseminates definitive policy guidance consistent with Federal, HHS and ACF policies and procedures; directs the distribution and maintenance of ACF's grants management policy manuals and directives; provides training and technical assistance to ACF staff and grantees on proper grants administration; advises on and assists with development of monitoring plans and strategies for ACF programs; reviews all ACF program announcements and other solicitation instruments for compliance with Federal, HHS and agency policies and adherence to applicable laws and regulations; reviews all noncompetitive grant applications to ensure compliance with HHS and ACF policies on competition; disseminates a wide array of financial and grants management information to ACF program and staff offices and seeks ways to enhance the utility of such information and the manner in which it is provided; assists the Assistant Secretary of ACF and the Director of the Office of Financial Management in strategic planning of grant-making activities; directs and/or coordinates management initiatives to improve financial administration of ACF mandatory and discretionary grant programs.

3. Amend KK.20 E. Division of Discretionary Grants to delete the first paragraph in its entirety and replace it with the following:

E. Division of Discretionary Grants provides management and technical administration of ACF discretionary grants and cooperative agreements. It serves as the principal office within ACF for ensuring that the business aspects of discretionary grants administration are carried out and

monitors programs and grantee performance in these areas: oversees the competitive review process and prepares ranking lists; negotiates grant budgets and special terms and conditions; prepares grant awards, ensuring incorporation of necessary grant terms and conditions; monitors grantee expenditure of funds; prepares reports and analyses on grantees' use of funds; monitors receipt of and analyzes content of financial status reports and other required reports and takes appropriate action based on those reports; processes actions for disallowances or other financial adjustments; review grantee financial management operations; and closes out expired grants.

EFFECTIVE DATE: April 28, 1994.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 94–10915 Filed 5–5–94; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 94N–0118]

Preamendments Class III Devices; Strategy Document; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is making available a document that sets forth the agency's strategy for implementing the provisions of the Safe Medical Devices Act of 1990 (the SMDA) which require FDA to review the classification of certain class III (premarket approval) devices, and either reclassify the devices into class I (general controls) or class II (special controls) or retain them in class III. The statute also requires FDA to establish a schedule for requiring the submission of premarket approval applications (PMA's) for those devices retained in class III.

DATES: Written comments by August 4, 1994.

ADDRESSES: Submit written requests for single copies of the strategy document to the Division of Small Manufacturers Assistance (HFZ–200), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the strategy document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The strategy document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4765, ext. 157.

SUPPLEMENTARY INFORMATION: Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval). Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. This notice refers to both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date, as "preamendments devices."

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. However, submission of a PMA, or a notice of completion of a product development protocol (PDP), is not required until 90 days after FDA promulgates a final rule requiring premarket approval for the device, or 30 months after final classification of the device, whichever is later. Similarly, a preamendments device is not required to have an approved investigational device exemption (IDE) (21 CFR part 812) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring submission of a PMA for the device. To date, FDA has issued eight final rules requiring submission of PMA's for preamendments class III devices. Nine additional proposed rules have been issued.

The SMDA (Pub. L. 101–629) added new section 515(i) to the act (21 U.S.C. 360e(i)). This section requires FDA to order manufacturers of class III preamendments devices for which no final rule has been issued requiring the submission of PMA's to submit to FDA a summary of, and citation to, any information known or otherwise available to the manufacturer respecting such devices, including adverse safety and effectiveness information that has not been submitted under section 519 of the act (21 U.S.C. 360i). Section 515(i) of the act further directs FDA to publish a regulation before December 1, 1995, for each device subject to section 515(i) either revising the classification of the device into class I or class II or retaining the device in class III. Within 12 months after publication of a regulation retaining a device in class III, the statute requires FDA to establish a schedule for the promulgation of a rule requiring the submission of PMA's for the device. However, the SMDA does not prevent FDA from proceeding immediately to rulemaking under section 515(b) of the act on specific devices, in the interest of public health, independent of the procedure in section 515(i) of the act.

Since enactment of the SMDA, FDA has issued proposed rules to require the submission of PMA's for five devices: Silicone inflatable saline filled breast prostheses; penile implants; testicular implants; nonroller cardiovascular blood pumps; and cranial electrotherapy stimulators. FDA is now announcing the availability of a document outlining its plans for either revising the classification, or requiring the submission of PMA's for the remaining preamendments class III devices.

FDA has divided this universe of devices into three groups:

1. Group 3 devices are devices that FDA believes are currently in commercial distribution and are not likely candidates for reclassification. FDA will require the submission of PMA's for these devices in the near future. FDA intends to issue proposed rules to require the submission of PMA's for the 15 highest priority devices in this group in phases over the next 3 years. In accordance with the procedures in section 515(b) of the act, manufacturers will have an opportunity to petition for reclassification of these devices by submitting a reclassification petition within 15 days of publication of the proposed rule to require submission of PMA's. Manufacturers who wish to petition for reclassification should begin preparing petitions for reclassification as soon as possible. FDA will initiate the 515(i) process for the remaining Group 3 devices.

2. Group 2 devices are devices that FDA believes have a high potential for being reclassified into class II. For these devices, FDA intends to issue an order under section 515(i) of the act requiring

manufacturers to submit a summary of, and citation to, any information respecting these devices. A manufacturer who wishes to have one of these devices reclassified will be required to submit information to support reclassification of the device.

3. Group 1 devices are devices that FDA believes raise significant questions of safety and/or effectiveness but are no longer used or are very limited in use. FDA believes that, for these devices, rulemaking under section 515(b) of the act will not result in viable PMA's or reclassification petitions. FDA intends to initiate a rulemaking proceeding to require the submission of PMA's for this group of devices. FDA will review any information received in response to the proposed rule to determine whether to issue a final rule requiring the submission of PMA's.

The strategy document lists the devices by categories in each of these groups. It also describes in more detail FDA's plans for implementing these procedures.

FDA believes that the procedures set forth in this strategy document are consistent with the congressional intent in enacting section 515(i) of the act. The Senate report makes clear the need to require submission of PMA's as soon as possible for those devices that are to remain in class III. (See S. Rept. 513, 101st Cong., 2d sess. 18 (1990)). Furthermore, the House of Representatives Report of the Safe Medical Devices Act of 1990 stated:

> In formulating these schedules [for requiring the submission of a PMA], the FDA should take into account its priorities and limited resources, together with the Committee's intention that the evaluation process be expeditious.

(See H. Rept. 808, 101st Cong., 2d sess. 26 (1990)).

Interested persons may, on or before July 9, 1994, submit to the Dockets Management Branch (address above) written comments regarding this strategy document. 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. The strategy document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 3, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–10998 Filed 5–5–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94M–0129]

Pace Medical, Inc.; Premarket Approval of the Model 4553 MICRO–PACE™ Dual-Chamber, DDD, Temporary Cardiac Pacemaker

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Pace Medical, Inc., Waltham, MA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Model 4553 MICRO–PACE™ Dual-Chamber, DDD, Temporary Cardiac Pacemaker (Model 4553 MICRO–PACE™). FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 10, 1994, of the approval of the application.

DATES: Petitions for administrative review by June 6, 1994.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James Cheng, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–594–2720.

SUPPLEMENTARY INFORMATION: On June 30, 1992, Pace Medical, Inc., Waltham, MA 02154, submitted to CDRH an application for premarket approval of the Model 4553 MICRO–PACE™. The device is a temporary external pulse generator and is indicated for use in any clinical situation in which the use of a temporary pacemaker on a patient provides therapeutic or diagnostic value or serves a prophylactic purpose. Indications for the use of temporary cardiac pacemakers include, but are not limited to, the following: Intermittent or complete heart block associated with asystole or bradycardia, symptomatic sinus bradycardia, surgically induced heart block, and heart block accompanying an acute myocardial infarction.

Additionally, temporary cardiac pacing has been used to overdrive, and thereby terminate, atrial arrhythmias, including atrial flutter. It has been used in preparation for permanent pacemaker implantation to ascertain the thresholds for sensing and pacing on the acute lead system. Although the intended uses of the Model 4553 MICRO–PACE™ are primarily therapeutic and prophylactic, the ability to extensively program both the amplitude of the constant voltage output and the pulse width in the Model 4553 MICRO–PACE™ does make it, when necessary, a satisfactory alternative to a properly functioning pacing system analyzer for the thresholds for sensing and stimulation.

In accordance with the provisions of section 515(f)(2) of the act (21 U.S.C. 360e(f)(2)) as amended by the Safe Medical Devices Act of 1990 (Pub. L. 101–629), this premarket approval application (PMA) was not referred to the Circulatory System Devices Panel, an FDA advisory panel, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel.

On March 10, 1994, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the

review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 6, 1994, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 20, 1994.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 94–10919 Filed 5–5–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94M–0126]

United Contact Lens; Premarket Approval of UCL–55 and UCL–55 TORIC (Ocufilcon C) Soft (Hydrophilic) Contact Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by United Contact Lens (UCL), Lynwood, WA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the UCL–55 and UCL–55 TORIC (ocufilcon C) Soft (hydrophilic) Contact Lenses. The devices are to be manufactured under an agreement with N & N Contact Lens International, Inc., Lynwood, WA, which has authorized UCL to incorporate information contained in the approved premarket approval application (PMA) and related supplements for the SOFTOUCH and SOFTOUCH TORIC (ocufilcon C) Soft (hydrophilic) Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter on March 7, 1994, of the approval of the application.

DATES: Petitions for administrative review by June 6, 1994.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James F. Saviola, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–594–1744.

SUPPLEMENTARY INFORMATION: On February 28, 1992, United Contact Lens, Inc., Lynnwood, WA 98036, submitted to CDRH an application for premarket approval of the UCL–55 and UCL–55 TORIC (ocufilcon C) Soft (hydrophilic) Contact Lenses. The UCL–55 and UCL–55 TORIC (ocufilcon C) Soft (hydrophilic) Contact Lenses are indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic (near-sighted) and hyperopic (farsighted). The spherical lens may be worn by persons who may exhibit astigmatism of 1.25 diopters (D) or less that does not interfere with visual acuity. The toric lens is indicated for the correction of astigmatism of 7.00 D or less. In addition, the lens is to be disinfected using a chemical lens care system. The application includes authorization from N & N Contact Lens International, Inc., Lynwood, WA 98046, to incorporate information contained in the approved PMA and related supplements for the SOFTOUCH and SOFTOUCH TORIC (ocufilcon C) Soft (hydrophilic) Contact Lenses. In accordance with the provisions of section 515(c)(2) of the act as amended by the Safe Medical Devices Act of 1990, this PMA was not referred to the Ophthalmic Devices Panel, and FDA advisory panel, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On March 7, 1994, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 6, 1994, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 20, 1994.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 94–10918 Filed 5–5–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting: Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious

Diseases, on June 2–3, 1994, at the Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

The meeting will be open to the public from 8 a.m. to 9 a.m., on June 2, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until recess on June 2, and from 8 a.m. until adjournment on June 3. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Peter R. Jackson, Scientific Review Administrator, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Solar Building, Room 4C13, Rockville, Maryland 20892, telephone 301–496–8426, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: April 29, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–10868 Filed 5–5–94; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265, will furnish summaries of the meeting and a roster of panel members.

Meeting To Review Individual Grant Applications

Scientific Review Administrator: Dr. Leonard Jacubczak (301) 594–7198.
Date of Meeting: May 10, 1994.
Place of Meeting: Westwood Bldg, Rm325C, NIH, Bethesda, MD.
Time of Meeting: 2 p.m.

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 Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–11007 Filed 5–5–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; the National Diabetes and Digestive and Kidney Diseases Advisory Council and Its Subcommittees

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on June 1–2, 1994. The meeting of the full Council will be open to the public June 1, from 8:30 a.m. to 12 noon and again on June 2, from 11:30 a.m. to 1 p.m., Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland, to discuss administrative details relating to Council business and special reports. The following subcommittee meetings will be open to the public June 1 from 1 p.m. to 2 p.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee meeting will be held in Wilson Hall, Building 1; Digestive Diseases and Nutrition Subcommittee meeting will be held in Conference Room 9A51, Building 31A; and Kidney, Urologic and Hematologic Diseases Subcommittee meeting will be held in Conference Room 7, Building 31C. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meetings of the subcommittees and full Council will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on June 1, from 2 p.m. to 5 p.m. and on June 2 from 8:30 a.m. to 10 a.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee; Digestive Diseases and Nutrition Subcommittee; and Kidney, Urologic and Hematologic Diseases Subcommittee. The full Committee meeting will be closed on June 2, from 10:30 a.m. to 11:30 a.m. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

For any further information, and for individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, room 657, Bethesda, Maryland 20892, (301) 594–7527, at least two weeks prior to the meeting.

In addition, upon request, a summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6623.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: April 29, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–10867 Filed 4–5–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittee B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

These meetings will be open to the public to discuss administrative details at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winnie Martinez, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Scientific Review Administrators indicated.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Scientific Review Administrators at least two weeks prior to the meeting date.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee B.

Scientific Review Administrator: Michael W. Edwards, Ph.D, Westwood Building, room 607, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–594–9300.

Dates of Meeting: June 10, 1994.

Place of Meeting: The Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: 8 a.m.–8:15 a.m.

Closed: 8:15 a.m.–adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.

Scientific Review Administrator: Daniel Matsumoto, Westwood Building, room 604, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–594–7587.

Dates of Meeting: June 10, 1994.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Open: 8:30 a.m.–8:45 a.m.

Closed: 8:45 a.m.–adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.

Scientific Review Administrator: Ann A. Hagan, Westwood Building, room 604, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–594–7575.

Dates of Meeting: June 10, 1994.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Open: 8:00 a.m.–8:15 a.m.

Closed: 8:15 a.m.–adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: April 29, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–10869 Filed 5–5–94; 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, April 15, 1994.

(Call PHS Reports Clearance Officer on 202–690–7100 for copies of request).

1. Health Study in Silver Valley, Idaho—New—This study will look at the effects of ambient lead exposure on two different cohorts in Silver Valley, Idaho. One cohort will consist of children living in the area in 1974 and 1975. This study will investigate possible associations between childhood exposure and adult neurologic, reproductive or kidney effects. The other cohort will consist of former female workers at the Bunker Hill facility. The study will include a comparison of the body burden of lead with the development of osteoporosis. Respondents: Individuals or households.

Title	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Children Study	2,700	1	1.75
Female Workers	250	1	3.55

Estimated Total Annual Burden—5,625 hours.

2. Evaluation of Smoke Detector Inventions—New—Through an inventory of smoke detector programs and an evaluation of smoke detector give-away programs, the Centers for Disease Control and Prevention will determine the best methods to distribute and maintain smoke detectors in the homes of residents who have the greatest risk of fire-related injury and death. Respondents: Individuals or households; State or local governments, Non-profit Institutions.

Title	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Give-away .	1,129	1	.41
Inventory ...	55	1	.78

Estimated Annual Total Burden—510 hours.

3. Evaluation of NIDA Technology Transfer Programs—New—This project is necessary to determine the effectiveness of The National Institute on Drug Abuse's (NIDA) technology transfer programs which disseminate research information to drug abuse prevention and treatment practitioners. Results will be used to direct NIDA technology transfer activities and will be shared with other NIH Institutes and Government agencies. Respondents: Individuals or households; State or local governments, businesses or other for-profit, Federal agencies or employees, Non-profit Institutions, Small businesses or organizations, Number of Respondents: 1,467; Number of Responses per Respondent: 1.45; Average Burden per Response: .26 hour; Estimated Annual Burden: 593 hours.

4. Annual Census of State and County Mental Hospital Inpatient Services, 1994–1996—0930–0093 (Extension, no change)—This voluntary data collection will provide the Center for Mental Health Services, the States and others with statistics on the changes in the utilization of State and county mental hospitals by different age-sex-diagnosis subgroups. These data are needed to measure variability in service utilization patterns and to understand deinstitutionalization practices in the United States and each State. Respondents: State or local governments; Number of Respondents: 71; Number of Responses per Respondent: 1; Average Burden per Response: 2 hours; Estimated Annual Burden: 142 hours.

5. The Framingham Study—0925–0216 (Extension, no change)—This project involves physical examination and testing of the surviving members of the Framingham Study cohort and their offspring. This study will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in middle age and older men and women. Respondents: Individuals or households; State or local governments, businesses or other for-profit, Non-profit Institutions, Small businesses or organizations; Number of Respondents: 2,400; Number of Responses per Respondent: 1; Average Burden per Response: 1.5625 hours; Estimated Annual Burden: 3,750 hours.

6. Grantee Reporting Requirements for the Ryan White comprehensive AIDS Resources and Emergency Act of 1990, Title III, Part B—0915–0158 (Revision)—Section 2664 of the Ryan White CARE Act requires reporting on the number of individuals to whom the grantee provides early intervention services pursuant to the grant, epidemiological and demographic data on the population of such individuals, the average cost of providing each category of early intervention services, and the aggregate amounts expended for each category; The purpose of this revision is to clarify and simplify reporting instructions and requirements. Respondents: State or local governments, Non-profit institutions; Number of Respondents: 130; Number of Responses per Respondent: 1; Average Burden per Response: 500 hours; Estimated Annual Burden: 65,000 hours.

Written comments and recommendations concerning 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: May 2, 1994.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 94–10870 Filed 5–5–94; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–94–1917; FR–3350–N–82]

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 Barbara Richards, 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 Sections 2905 and 2906 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160 (Pryor Act Amendment) and 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 April 21, 1993 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C).

These properties reviewed are listed as suitable/available and unsuitable. In accordance with the Pryor Act Amendment the suitable properties will be made available for use 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. Please be advised, in accordance with the provisions of the Pryor Act Amendment, that if no expressions of interest or applications are received by the Department of Health and Human Services (HHS) during the 60 day period, these properties will no longer be available for use to assist the homeless. In the case of buildings and properties for which no such notice is received, these buildings and properties shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and properties. These buildings and properties shall be available for a submission by such redevelopment authority exclusively for one year. Buildings and properties available for a redevelopment authority shall not be available for use to assist the homeless. If a redevelopment authority does not express an interest in the use of the buildings or properties or commence the use of buildings or properties within the applicable time period such buildings and properties shall then be republished as properties available for use to assist the homeless pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act.

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).

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 Barbara Richards at the address listed at the beginning of this notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; U.S. Air Force: John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 696–5569; (These are not toll-free numbers).

Dated: April 29, 1994.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 05/06/94

Suitable/Available Properties

Buildings (by State)

Arizona

700 Units of Family Housing
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210096
Status: Pryor Amendment
Base closure, Number of Units: 700
Comment: 1-story, 2–5 bedrooms, military family housing

15 Temporary Living Quarters
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210097
Status: Pryor Amendment
Base closure, Number of Units: 15
Comment: 1–3 story, concrete block and stucco structures including dorms and lodging

5 Support & Service Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210098
Status: Pryor Amendment
Base closure, Number of Units: 5
Comment: one 3-story fire station, one 1-story brick chapel, a gate house, post office and education center

24 Miscellaneous Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210099
Status: Pryor Amendment
Base closure, Number of Units: 24
Comment: 1–2 story structures including a library, gymnasium, a theater, commissary, stores, and bowling, youth and recreation centers

6 Recreation Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210100
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 1 story structures including golf club bldgs., bathhouses, and swimming pools

6 Medical Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210102
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 1 story, block and concrete structures including a hospital, clinics and a pharmacy

9 Laboratories
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210103
Status: Pryor Amendment
Base closure, Number of Units: 9
Comment: eight 1-story and one 3-story metal and concrete/block structures

36 Training & Admin Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210104
Status: Pryor Amendment
Base closure, Number of Units: 36
Comment: 1–3 story, concrete block, wood and metal structures including law centers, offices, classrooms and flight training facilities

12 Warehouse/Stor. Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210105
Status: Pryor Amendment
Base closure, Number of Units: 12
Comment: 1 story concrete, wood and steel structures including warehouses and storage bldgs.

52 Support/Maint. Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210106
Status: Pryor Amendment
Base closure, Number of Units: 52
Comment: 1 story, concrete/steel, concrete/block and steel structures including hangars, maintenance and jet engine shops

14 Hazardous/Explosive Storage
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210107
Status: Pryor Amendment
Base closure, Number of Units: 14
Comment: 1 story concrete and concrete/metal structures

California

1,402 Family Housing/Garages
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420008
Status: Pryor Amendment
Base closure, Number of Units: 1402
Comment: Includes family housing residences and garages, various square feet units, 3–4 bedrooms, wood siding, concrete or stucco frame, scheduled to be vacated 3/96.

7 Dormitories
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420009
Status: Pryor Amendment
Base closure, Number of Units: 7
Comment: 1686–48,000 sq. ft., 1–3 story, concrete frame, includes dorms, officer's quarters, scheduled to be vacated 3/96.

6 Educational Facilities
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420010
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 2400–25,774 sq. ft., 1&3 story, concrete block, masonry or metal frame, includes band center, NCO prof. education cntr, dorms, scheduled to be vacated 3/96.

6 Medical Offices
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420011
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 200–174,110 sq. ft., 1&5 story, concrete frame, includes dental clinic, hospital, medical training, AMB shelter, scheduled to be vacated 3/96.

2 Chapels
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420012
Status: Pryor Amendment
Base closure, Number of Units: 2
Comment: 10,231 & 21,810 sq. ft., 1 story, concrete frame, includes chapels, scheduled to be vacated 3/96.

13 Administrative Offices
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420013
Status: Pryor Amendment
Base closure, Number of Units: 13
Comment: 300–67,440 sq. ft., 1–3 story, wood, concrete or metal stud frame, includes base engineer bldg., reserves training, env. health, family cntr support, sched. to be vacated 3/96.

5 Child Care Facilities
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420014

Status: Pryor Amendment
Base closure, Number of Units: 5
Comment: 848–13,200 sq. ft., concrete, brick, wood or stucco frame, includes child care centers, youth center, scheduled to be vacated 3/96.

14 Munitions Storage Facs.
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420015
Status: Pryor Amendment
Base closure, Number of Units: 14
Comment: 1047–2,392 sq. ft., 1 story, concrete frame, includes igloo storages, scheduled to be vacated 3/96.

2 Munitions Shops
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420016
Status: Pryor Amendment
Base closure, Number of Units: 2
Comment: 1920 & 5,564 sq. ft., 1 story, concrete or masonry frame, scheduled to be vacated 3/96.

8 Covered Storage Facilities
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420017
Status: Pryor Amendment
Base closure, Number of Units: 8
Comment: 384–85,937 sq. ft., 1 story, wood, concrete block, metal or masonry frame, includes hazardous storage, BE storage, material servs., troop warehouse, sched. to be vacated 3/96.

5 Utility Support Structures
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420018
Status: Pryor Amendment
Base closure, Number of Units: 5
Comment: 456–4,826 sq. ft., 1 story, concrete frame, includes utility vault, heating facility, water support, training lodge bldg., scheduled to be vacated 3/96.

12 Maintenance Shops
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420019
Status: Pryor Amendment
Base closure, Number of Units: 12
Comment: 540–16,250 sq. ft., 1 story, wood or metal frame, includes BE storage sheds, BE maint. shops, BE ground facilities, scheduled to be vacated 3/96.

15 Commercial Facilities
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420020
Status: Pryor Amendment
Base closure, Number of Units: 15
Comment: 250–116,562 sq. ft., 1–2 story, concrete, wood, steel or masonry frame, includes library, theater, commissary, hobby ship, sales stores, open mess, sched. to be vacated 3/96.

6 Recreational Facilities
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number: 199420021
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 85–5,779 sq. ft., 1 story, concrete block or metal frame, includes golf equipment clubhouses, scheduled to be vacated 3/96.

Florida

9 Industrial Storage Bldgs.
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340003
Status: Pryor Amendment
Base closure, Number of Units: 9
Comment: 792–23,415 sq. ft.; 1 story, needs rehab, (Fac. #s 615,619, 736 & 757 being used by Govt. for at least 2 yrs), avail. subject to environmental clean up requirements.

21 Administrative Bldgs.
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340004
Status: Pryor Amendment
Base closure, Number of Units: 21
Comment: 100–51,793 sq. ft., need repairs, 1–3 story, (Fac #s 718, 755, 756, 931 & 999 are being used by Govt. for at least 2 yrs.) avail. subject to environmental clean up requirements.

13 Dormitories
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340005
Status: Pryor Amendment
Base closure, Number of Units: 13
Comment: 13,426–26,034 sq. ft.; 2–3 story, need repairs, (Fac #938 being used by Govt. for at least 2 yrs.), avail. subject to environmental clean up requirements.

7 Miscellaneous Bldgs.
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340006
Status: Pryor Amendment
Base closure, Number of Units: 7
Comment: 1,344 to 93,202 sq. ft., 1–2 story, need repairs, incs. dining hall, child care center, dental clinic, classroom, avail. subject to environmental clean up requirements.

8 Recreational Facilities
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340007
Status: Pryor Amendment
Base closure, Number of Units: 8
Comment: 384–27,953 sq. ft., 1–2 story, need repairs, includes bathhouse, swimming pool, bowling center, officers club, golf club house, avail. subject to env. clean up requirement.

6 Warehouses
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340008
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 3,600–90,683 sq ft., 1 story, need repairs, (Fac #s 618 & 624 being used by Govt. for at least 2 yrs.), avail. subject to environmental clean up requirements.

Illinois

16 Living Quarters
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420005
Status: Pryor Amendment
Base closure, Number of Units: 16
Comment: 2,356 to 32,512 sq. ft., wood or masonry frame, 1–3 story, includes officer's quarters, enlisted quarters, scheduled to be vacated 9/94.

6 Educational Facilities
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420006
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 3,800 to 25,648 sq. ft., wood or masonry frame, includes reserve training, academic instruction, intel production trng, aviation trng., scheduled to be vacated 9/94.

5 Administration Buildings
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420007
Status: Pryor Amendment
Base closure, Number of Units: 5
Comment: 3,552 to 35,936 sq. ft., wood frame, includes police station, reserve admin., admin. offices, 1–2 story, scheduled to be vacated 9/94.

3 Retail/Security Facilities
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420008
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 3,749 to 21,315 sq. ft., wood/masonry frame, includes exchange bldg., club house, fire station, 1–2 story, scheduled to be vacated 9/94.

8 Industrial/Maintenance Facs.
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420009
Status: Pryor Amendment
Base closure, Number of Units: 8
Comment: 21,671 to 185,084 sq. ft., 1–5 story, steel or wood frame, includes maint.

hangars & shops, air craft hangars, public works shop, scheduled to be vacated 9/94.

3 Restaurants/Chapel
Naval Air Station
Glenview Co: Cook IL 60026-
Landholding Agency: Navy Base Close
Property Number: 789420010
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 3,907 to 24,769 sq. ft., wood frame, 1 story, includes chapel, enlisted dining, enlisted club/warehouse, scheduled to be vacated 9/94.

Medical Clinic
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420011
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 49,182 sq. ft., wood frame, 1 story, scheduled to be vacated 9/94.

2 Storage Facilities
Naval Air Station
Glenview Co: Cook IL 60026-
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number: 789420012
Status: Pryor Amendment
Base closure, Number of Units: 2
Comment: 4,800 & 68,040 sq. ft., steel or masonry frame, 1–2 story, includes public works storage and general warehouse, scheduled to be vacated 9/94.

Indiana

378 Multifamily Housing
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330002
Status: Pryor Amendment
Base closure, Number of Units: 378
Comment: 1,410 to 2,826 sq. ft., 2–4 bedrooms, 1 and 2 unit bldgs., attached garages or carports, scheduled to be vacated 9/30/94.

168 Multifamily Housing
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330003
Status: Pryor Amendment
Base closure, Number of Units: 168
Comment: 1,619 to 3,960 sq. ft., 3–4 bedrooms, 1 and 2 unit bldgs, scheduled to be vacated 9/30/94.

44 Multifamily Housing
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330004
Status: Pryor Amendment
Base closure, Number of Units: 44
Comment: 5,256 to 7,430 sq. ft., 2–4 bedrooms, w/detached carports, 4 and 6 unit bldgs.

10 Dormitories
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330005
Status: Pryor Amendment
Base closure, Number of Units: 10
Comment: 1,984 to 26,739 sq. ft., presence of asbestos, includes dorms, scheduled to be vacated 9/30/94.

6 Temporary Living Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330006
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 1984 sq. ft., includes temporary facilities w/attached carports, scheduled to be vacated 9/30/94.

Bldg. 162
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330007
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 2,160 sq. ft., presence of asbestos, most recent use—reserved forces training, scheduled to be vacated 9/30/94.

11 Administration Buildings
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330008
Status: Pryor Amendment
Base closure, Number of Units: 11
Comment: 1,226 to 55,797 sq. ft., includes law centers/admin., presence of asbestos, 3 near airport clear zone, scheduled to be vacated 9/30/94.

22 Support Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330009
Status: Pryor Amendment
Base closure Number of Units: 22
Comment: 784 to 55,267 sq. ft., presence of asbestos, includes snack bar, library commissary, animal clinic, credit union, base exchange, chapel, scheduled to be vacated 9/30/94.

2 Communication Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330010
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 3,098 to 6,832 sq. ft., presence of asbestos, scheduled to be vacated 9/30/94.

12 Maintenance Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330011
Status: Pryor Amendment
Base closure Number of Units: 12
Comment: 323 to 130,492 sq. ft., presence of asbestos, 3 in airport clear zone, incs. sheds, hangars, BE maintenance, covered storage, scheduled to be vacated 9/30/94.

11 Storage Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330012
Status: Pryor Amendment
Base closure Number of Units: 11
Comment: 587 to 21,214 sq. ft., presence of asbestos, 2 in airport clear zone, includes warehouses, open storage, scheduled to be vacated 9/30/94.

2 Medical Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330013
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 5,573 to 58,291 sq. ft., presence of asbestos, includes dental clinic, medical clinic, scheduled to be vacated 9/30/94.

5 Recreational Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330014
Status: Pryor Amendment
Base closure Number of Units: 5
Comment: Includes hay barn, bowling, swimming pool, golf clubhouse, and storage, scheduled to be vacated 9/30/94.

Maine

71 Wherry Family Housing
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320033
Status: Pryor Amendment
Base closure Number of Units: 71
Comment: 1,894 to 22,302 sq. ft., 1 & 2 story wood frame residences, scheduled to be vacated 9/30/94.

29 Capehart Family Housing
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320034
Status: Pryor Amendment
Base closure Number of Units: 29
Comment: 7,748 to 7,989 sq. ft., 2 story shingled frame residences, scheduled to be vacated 9/30/94.

26 Family Housing
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320035
Status: Pryor Amendment
Base closure Number of Units: 26
Comment: 1,420 to 10,800 sq. ft., 1, 2 & 3 story, aluminum and wood frame residences, scheduled to be vacated 9/30/94.

3 Officer's Quarters
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320036
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 3,688 to 38,058 sq. ft., 1 & 2 story, aluminum and wood frame, scheduled to be vacated 9/30/94.

117 Housing Garages
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320037
Status: Pryor Amendment

Base closure Number of Units: 117
Comment: Wood/cedar frame, 1 story, various sq. ft., scheduled to be vacated 9/30/94.

12 Storage Bldgs.
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320038
Status: Pryor Amendment
Base closure Number of Units: 12
Comment: 288 to 3,729 sq. ft., wood frame, 1 story, includes storage & maintenance shops, scheduled to be vacated 9/30/94.

40 Admin/Community Support
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320039
Status: Pryor Amendment
Base closure Number of Units: 40
Comment: 900 to 145,877 sq. ft., 1–3 story, brick, concrete or wood frame, includes chapel, post office, dining hall, child care cntrs., library, theater, pool, sched. to be vacated 9/30/94.

29 Vehicle Maint./Storage
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320040
Status: Pryor Amendment
Base closure Number of Units: 29
Comment: Wood, metal or concrete structures, includes storage facs., vehicle maint., maintenance shops, dry cleaners, auto shop, water supply, scheduled to be vacated 9/30/94.

59 Nose Docks/Hangars
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320041
Status: Pryor Amendment
Base closure Number of Units: 59
Comment: Concrete, metal or brick structures, incs., fuel bldgs., pump stations, vehicle parking, storage sheds & bldgs., security operations, scheduled to be vacated 9/30/94.

22 Flightline Support
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320042
Status: Pryor Amendment
Base closure Number of Units: 22
Comment: Concrete/metal/wood/brick structures, incs., fire stations, correction facility, avionics shop, maint. shops, vehicle parking, utility vault, scheduled to be vacated 9/30/94.

86 Weapons Storage Area
Loring Air Force Base
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320043
Status: Pryor Amendment
Base closure Number of Units: 86
Comment: Concrete/metal/brick structures, incs. inspection bldgs., igloos storage, munitions storage, warehouses, police bldg., storage magazines, scheduled to be vacated 9/30/94.

Bldgs. 1–16, Loring AFB
Family Housing Annex
U.S. Route #1
Caswell Co: Aroostook ME 04750–
Landholding Agency: Air Force-BC
Property Number: 199420001
Status: Pryor Amendment
Base closure Number of Units: 16
Comment: 1,116 sq. ft. each, 1 story frame residence, no utilities, asbestos and radon tests pending, fuel tanks removed, sewage line need repairs.

Michigan

Bldg. 1101, Housing
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240001
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 1,073 sq. ft., 1 story wood frame.

300 SF Housing, Manufactured
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240002
Status: Pryor Amendment
Base closure Number of Units: 300
Comment: 1,170 sq. ft. each, 1 story (10000 area).

948 Family Housing, Capehart
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240003
Status: Pryor Amendment
Base closure Number of Units: 948
Comment: 3,502 to 14,363 sq. ft., 1,2,4,6 & 8 unit buildings, (8000 and 9000 area).

100 Family Housing, Appr 50–69
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240004
Status: Pryor Amendment
Base closure Number of Units: 100
Comment: 1,192 to 7,574 sq. ft., 1,2,6 & 7 unit buildings (1700 and 1800 area).

13 Dormitories
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240005
Status: Pryor Amendment
Base closure Number of Units: 13
Comment: 3,025 to 90,501 sq. ft., 1,2,3 & 4 story, single military housing.

4 Recreation Pavilions
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240006
Status: Pryor Amendment
Base closure Number of Units: 4
Comment: 668 to 2,398 sq. ft., most recent use—recreational activities.

3 Recreational Facilities
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240007
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 4,317 to 13,162 sq. ft., includes youth center, child care, recreation center.

3 Dining Facilities
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240008
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 13,388 to 15,062 sq. ft., includes open mess.

4 Retail Outlets
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240009
Status: Pryor Amendment
Base closure, Number of Units: 4
Comment: 4,208 to 40,701 sq. ft., includes service outlet exchange, sales store, exchange branch, base package store.

4 Warehouses
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240010
Status: Pryor Amendment
Base closure, Number of Units: 4
Comment: 7,856 to 104,213 sq. ft., includes commissary, supply and equipment base, traffic facility.

4 Storage Facilities
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240011
Status: Pryor Amendment
Base closure, Number of Units: 4
Comment: 384 to 960 sq. ft., needs rehab, includes open mess.

3 Office Trailers
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240012
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 480 to 1,440 sq. ft., includes child care center, admin offices, petroleum ops. bldg.

11 Office Buildings
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240013
Status: Pryor Amendment
Base closure, Number of Units: 11
Comment: 596 to 30,154 sq. ft., includes personnel offices, environmental, headquarters group, maintenance, family housing management office.

6 Maintenance Buildings
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240014
Status: Pryor Amendment
Base closure, Number of Units: 6
Comment: 928 to 26,933 sq. ft., includes vehicle operations, vehicle maintenance shops, arts & crafts center.

Bldg. 440, Theatre
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240015
Status: Pryor Amendment

Base closure, Number of Units: 1
Comment: 5,825 sq. ft., 1 story, masonry and concrete frame.

Bldg. 1135
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240016
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 569 sq. ft., 1 story, most recent use—swimmers bath house.

Bldg. 420
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240017
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 14,522 sq. ft., 1 story, most recent use—bowling alley.

Bldg. 418
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240018
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 8,210 sq. ft., 1 story, concrete frame, most recent use—library.

Bldg. 445
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240019
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 19,977 sq. ft., 1 story concrete/masonry frame, roof leaks, most recent use—chapel.

Bldg. 228
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240020
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 14,946 sq. ft., 1 story, concrete & masonry frame, most recent use—education facility.

Facility 7295
Wurtsmith Air Force Base
Oscoda Co: Iosco MI 48753–
Landholding Agency: Air Force-BC
Property Number: 199240021
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 1,911 sq. ft., 2 story, octagon shaped, corrugated metal frame, most recent use—radar bldg.

Missouri

Facility 918
Richards-Gebaur Air Force Base
15360 Hangar Road
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320022
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 68,767 sq. ft., 1 story concrete block, most recent use—aircraft hangar, scheduled to be vacated 9/30/94.

3 Dormitories
Richards-Gebaur Air Force Base
Elmwood Street
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320023
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 9,722 to 9,739 sq. ft., 2 story wood frame, (Fac. #'s 243, 250, 252), scheduled to be vacated 9/30/94.

Facility 248
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320024
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 25,536 sq. ft., 2 story concrete block/wood frame, most recent use—mess hall, scheduled to be vacated 9/30/94.

11 Offices
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320026
Status: Pryor Amendment
Base closure, Number of Units: 11
Comment: 856 to 67,816 sq. ft., 1 & 2 story, wood, concrete block, prefab steel or corrugated metal, incs. ofc clinics, base exchange, ofcs., ofc maint shop, sched to be vacated 9/30/94.

2 Recreation Facilities
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320027
Status: Pryor Amendment
Base closure, Number of Units: 2
Comment: 1,083 & 1,624 sq. ft., 1 story wood/steel frames, incs. pool bath house, base park shelter house, scheduled to be vacated 9/30/94.

Facility 1049
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320028
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 611 sq. ft., 1 story concrete block, most recent use—office/storage/small arms range, scheduled to be vacated 9/30/94.

Facility 924
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number 199320029
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 569 sq. ft., 1 story wood frame, most recent use—grounds shop, scheduled to be vacated 9/30/94.

3 Community Support Facilities
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320030
Status: Pryor Amendment
Base closure, Number of Units: 3
Comment: 308 to 10,417 sq. ft., wood & concrete block, incs. fire station, communications support, control tower (7 story), scheduled to be vacated 9/30/94.

10 Maintenance Shops/Hangars
Richards-Gebaur Air Force Base
Kansas City Co: Jackson, MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320031
Status: Pryor Amendment
Base closure, Number of Units: 10
Comment: 1,812 to 23,404 sq. ft., 1 story corrugated metal or concrete block, scheduled to be vacated 9/30/94.

28 Storage Facilities
Richards-Gebaur Air Force Base
Kansas City Co: Jackson MO 64147–
Landholding Agency: Air Force-BC
Property Number: 199320032
Status: Pryor Amendment
Base closure, Number of Units: 28
Comment: 141 to 97,400 sq. ft., wood, concrete block or steel beams, incs. covered open storage, ofc./storage and sheds, scheduled to be vacated 9/30/94.

New York

316 Military Family Housing
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420023
Status: Pryor Amendment
Base closure Number of Units: 316
Comment: Various sq. ft. per unit, 2–4 bedrooms, wood frame, single to six-plex bldgs., pres. of asbestos, includes 2 detached garages, scheduled to be vacated 9/30/95.

4 Temporary Lodging Facilities
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420024
Status: Pryor Amendment
Base closure Number of Units: 4
Comment: 400–5,611 sq. ft., wood frame, pres. of asbestos, includes temporary lodging & support bldgs., scheduled to be vacated 9/30/95.

28 Administrative Building
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420025
Status: Pryor Amendment
Base closure Number of Units: 28
Comment: Various sq. ft., concrete, brick, wood, or metal bldgs., 1–2 story, pres. of asbestos, incs. credit union, offices, law & ed. center, police ops., sched. to be vacated 9/30/95.

11 Dorm/Officer Quarters
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420026
Status: Pryor Amendment
Base closure Number of Units: 11
Comment: 6,136–81,144 sq. ft., brick, wood or metal frame, 1–3 story, includes dorms, officer quarters, correctional custody, scheduled to be vacated 9/30/95.

2 Medical Facilities
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420028
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 3,700–102,800 sq. ft., concrete frame, 1 & 3 story, includes ambulance

shelter and comp. medical facility, scheduled to be vacated 9/30/95.

15 Recreational Buildings
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420029
Status: Pryor Amendment
Base closure Number of Units: 15
Comment: 785–25,858 sq. ft., concrete, metal brick or wood frame, 1–2 story, incs. bowling alley, theater, gym, swimming pool, pavilion, recreation center, sched. to be vacated 9/30/95.

Steam Plant
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420031
Status: Pryor Amendment
Base closure Number of Units: 7
Comment: Seven bldgs., 544–40,347 sq. ft., concrete or metal frame, 1–2 story, includes heating facilities, scheduled to be vacated 9/30/95.

40 Shop Facilities
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420032
Status: Pryor Amendment
Base closure Number of Units: 40
Comment: Various sq. ft., concrete or metal frame, 1–2 story, presence of asbestos, incs. civil engineering, storage, parking sheds, vehicle maint., sched. to be vacated 9/30/95.

41 Warehouses/Storage
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420033
Status: Pryor Amendment
Base closure Number of Units: 41
Comment: 168–211,236 sq. ft., concrete, metal & brick frame, 1–3 story, pres. of asbestos, incs. hazardous storage, igloo storages, hsg. maint., commissary sched to be vacated 9/95.

3 Hangars
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420034
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 19,200–178,196 sq. ft., concrete/metal frame, 1–2 story, pres. of asbestos, incs. maintenance hangars, scheduled to be vacated 9/30/95.

Ohio

2 Military Housing
Gentile Air Force Station
Kettering Co: Montgomery OH 45444–
Landholding Agency: Air Force-BC
Property Number: 199420002
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 1318 & 3651 sq. ft., includes commander's residence and visitors quarters, scheduled to be vacated 12/96.

11 Office Buildings
Gentile Air Force Station
Kettering Co: Montgomery OH 45444–
Landholding Agency: Air Force-BC
Property Number: 199420003
Status: Pryor Amendment
Base closure Number of Units: 11
Comment: 930–240,385 sq. ft., includes admin., dispensary, child care center, cafeteria, logisticla fac., engineering ofc., scheduled to be vacated 12/96.

4 Support Service Facilities
Gentile Air Force Station
Kettering Co: Montgomery OH 45444–
Landholding Agency: Air Force-BC
Property Number: 199420005
Status: Pryor Amendment
Base Closure Number of Units: 4
Comment: 3,710–11,860 sq. ft., includes fire station, power station, heating facility, grounds storage, scheduled to be vacated 12/96.

3 Commercial Facilities
Gentile Air Force Station
Kettering Co: Montgomery OH 45444–
Landholding Agency: Air Force-BC
Property Number: 199420006
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 3,000–201,060 sq. ft., includes exchange store/barber shop, storage, bath house/thrift shop, scheduled to be vacated 12/96.

11 Warehouses
Gentile Air Force Station
Kettering Co: Montgomery OH 45444–
Landholding Agency: Air Force-BC
Property Number: 199420007
Status: Pryor Amendment
Base Closure Number of Units: 11
Comment: 2,819–196,563 sq. ft., includes carpenter shop, typewriter maintenance shop, grounds storage, paper recycling, multi-purpose blds. scheduled to be vacated 12/96.

South Carolina
448 Buildings/800 Units
Military Family Housing
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210001
Status: Pryor Amendment
Base closure Number of Units: 800
Comment: 2–4 bedrooms single family dwellings and duplexes with attached carports.

13 Dormitories/Quarters
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210002
Status: Pryor Amendment
Base closure Number of Units: 13
Comment: 2 to 3 story masonry and block structures.

12 Miscellaneous Buildings
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210003
Status: Pryor Amendment
Base closure Number of Units: 12
Comment: 1 to 2 story structures including a chapel, theater, child care centers, retail sales stores and dining hall, (recreation center leased to community).

Medical Sup. Bldg.
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210004
Status: Pryor Amendment
Base closure Number of Units: 6
Comment: 3-story hospital and six 1-story medical support buildings.

44 Administrative Type Bldgs
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210005
Status: Pryor Amendment
Base closure Number of Units: 44
Comment: 1 to 2 story modular, block, wood and brick structures.

12 Recreation Buildings
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210006
Status: Pryor Amendment
Base closure Number of Units: 12
Comment: 1-story recreation buildings including bath houses, bowling center, gymnasium (golf course bldgs. are leased to local community).

36 Utility Type Buildings
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210009
Status: Pryor Amendment
Base closure Number of Units: 36
Comment: 1-story structures including warehouses, shops and sheds.

3 Security Police Buildings
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210010
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 1-story masonry structures including a jail.

11 Ammunition Storage Bldgs.
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210011
Status: Pryor Amendment
Base closure Number of Units: 11
Comment: 1-story concrete and masonry storage structures.

Land (by State)

Arizona

14 Recreation Facilities
Williams Air Force Base
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force-BC
Property Number: 199210101
Status: Pryor Amendment
Base closure, Number of Unites: 14
Comment: Baseball, softball and soccer fields, tennis courts, track, golf course and driving range, and a camp.

California

Land
March Air Force Base
Riverside Co: Riverside CA 92518–1728
Landholding Agency: Air Force-BC
Property Number 199420022

Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 2,000 acres, includes golf course and recreational land, scheduled to be vacated 3/96.

Florida

Land
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number 199340001
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 1,150 acres, part of 2,940 entire installation. Some acreage is vacant, some is improved w/structures. Facs. damaged may be demolished by AF. Govt may use some of underlying land.

Land—underlying housing
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number 199340009
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 428 acres—housing on land scheduled for demolition.

Illinois

120 Acres
Naval Air Station
Glenview Co: Cook IL 60026–
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number 789420001
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: Golf course, scheduled to be vacated 9/94.

720 Acres
Naval Air Station
Glenview Co: Cook IL 60026–
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number 789420002
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: Open land/runways, scheduled to be vacated 9/94.

86.54 Acres
Naval Air Station
Glenview Co: Cook IL 60026–
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number 789420003
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: Great Lakes housing area (approx. 15–20 acres vacant), scheduled to be vacated 9/94.

159.95 Acres
Naval Air Station
Glenview Co: Cook IL 60026–
Location: Lehigh Avenue, East; Shermer Road & CNW Railroad, West; East Lake Avenue, South
Landholding Agency: Navy Base Close
Property Number 789420004
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: Buildings/operations area, scheduled to be vacated 9/94.

Indiana

Land
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number 199330001
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 13 parcels totalling 839 acres, easement restrictions.

18 Recreational Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number 199330015
Status: Pryor Amendment
Base closure, Number of Units: 18
Comment: Includes softball/baseball fields, tennis courts, recreation courts, golf course and range.

Maine

Land—On Base
Loring Air Force Base
Limestone Co: Aroostook ME 04750–
Landholding Agency: Air Force-BC
Property Number 199320045
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 5,233 acres of which 3,583 is unimproved, improved land includes aprons, roads, runways, parking, etc.

Land—Off Base
Loring Air Force Base
Limestone Co: Aroostook ME 04750–
Landholding Agency: Air Force-BC
Property Number 199320046
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 4,517 acres of which 4,047 is unimproved, improved land includes roads, runways, parking, etc.

New York

Recreational Land
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420030
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: Various acreage, includes recreational facilities, baseball, football, & track fields, tennis courts, scheduled to be vacated 9/30/95.

Ohio

8 Recreational Facilities
Gentile Air Force Station
Kettering Co: Montgomery OH 45444–
Landholding Agency: Air Force-BC
Property Number: 199420004
Status: Pryor Amendment
Base closure, Number of Units: 8
Comment: Two bldgs. & land areas; includes NCO Club, officer's open mess, basketball/tennis courts, softball field, pool, golf green, scheduled to be vacated 12/96.

South Carolina

Recreational Areas
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210007
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: Approx. 65 acres including 3 soccer fields, 6 tennis courts, 3 softball fields, 4 youth ball fields, track, campground.

Golf Course
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210008
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 224 acre golf course.

Land
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force Force-BC
Property Number: 199210014
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 1,179 acres, includes improvements, mobile home park, airfield & aviation support area. 1,555 remaining acres is part of a land exchange to the State of South Carolina.

Forest
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210015
Status: Pryor Amendment
Base closure, Number of Units: 1
Comment: 1,678 acres.

Unsuitable Properties

Buildings (by State)

Florida

1600 Family Housing Units
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340002
Status: Pryor Amendment
Base closure, Number of Units: 1,600
Reason: Extensive deterioration.

Indiana

6 Operations Facilities
Grissom Air Force Base
Grissom Co: Miami IN 46971–5000
Landholding Agency: Air Force-BC
Property Number: 199330016
Status: Pryor Amendment
Base closure, Number of Units: 6
Reason: Within airport runway clear zone.

Maine

7 Water/Waste Facilities
Loring Air Force
Caribou Co: Aroostook ME 04736–
Landholding Agency: Air Force-BC
Property Number: 199320044
Status: Pryor Amendment
Base closure, Number of Units: 7
Reason: Other
Comment: Waste/water treatment bldgs.

New York

Bldg. 923
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420027

Status: Pryor Amendment
Base closure, Number of Units: 1
Reason: Extensive deterioration.

Bldg. 308—Admin Area
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420035
Status: Pryor Amendment
Base closure, Number of Units: 1
Reason: Extensive deterioration.

Bldg. 2633—Housing Area
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force-BC
Property Number: 199420036
Status: Pryor Amendment
Base closure, Number of Units: 1
Reason: Extensive deterioration.

South Carolina

Bldg. 544, Small Arms Bldg.
Myrtle Beach Air Force Base
Myrtle Beach Co: Horry SC 29579–5000
Landholding Agency: Air Force-BC
Property Number: 199210016
Status: Pryor Amendment
Base closure, Number of Units: 1
Reason: Extensive deterioration.

Land (by State)

Florida

Airfield/Support Land
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199420037
Status: Pryor Amendment
Base closure, Number of Units: 1
Reason: Within airport runway clear zone.

[FR Doc. 94–10741 Filed 5–5–94; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Approval

The following applicants have applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: The Peregrine Fund, Inc., Boise, Idaho. The applicant wishes to establish a cooperative breeding program for the Harpy eagle (*Harpia harpyja*). The applicant wishes to be an active participant in this program and, has assumed responsibility for the oversight of this consortium that includes the Fort Worth Zoo, the Los Angeles Zoological Society, the Oklahoma Zoo and, the San Diego Zoological Society.

Applicant: William A. McClure, Pinellas Park, Florida. The applicant wishes to establish a cooperative breeding program for the Yellow Crowned Amazon Parrot (*Amazona ochrocephala xantholaema*). The applicant wishes to be an active participant in this program with two other private individuals. The Sun Coast Avian Society, Inc. has assumed responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2095); FAX: (703/358–2280).

Dated: May 2, 1994.

Susan Lieberman,

Acting Chief, Branch of Operations Office of Management Authority.

[FR Doc. 94–10924 Filed 5–5–94; 8:45 am]
BILLING CODE 4310–55–P

National Park Service

Marsh-Billings National Historical Park, Woodstock, VT; Intent To Prepare an Environmental Impact Statement and Notice of Public Scoping Period

In accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–109 section 102(2)(c)), the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) for the Marsh-Billings National Historical Park (Marsh-Billings NHP), located in Woodstock, Vermont. The purpose of the EIS is to assess the impacts of alternative management strategies which will be described in the General Management Plan for Marsh-Billings NHP. A range of alternatives will be formulated for natural and cultural resource protection, visitor use and interpretation, facilities development, and operations.

The NPS will hold a series of community meetings throughout the spring of 1994, which will serve as public scoping for the GMP/EIS. The meetings, which will be announced through various local media will be held at various locations throughout the community. Additionally, the NPS will issue a community survey in May 1994. The purpose of these meetings and the survey is to obtain both written and verbal comments concerning the future development of Marsh-Billings NHP. Those persons who wish to comment verbally or in writing, who wish to participate in a small group meeting, or to complete a questionnaire should contact Marjorie Smith, Planning Team Captain, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109–3572, or telephone (617) 223–5133.

The draft GMP/EIS is expected to be completed and available for public review in 1995. After public and interagency review of the draft document, comments will be considered, and a final EIS and Record of Decision will be prepared.

The responsible official is Marie Rust, Regional Director, North Atlantic Region, National Park Service, 15 State Street, Boston, MA 02109–3572.

Dated: April 29, 1994.

John C. Reed,

Deputy Regional Director.

[FR Doc. 94–10879 Filed 5–5–94; 8:45 am]
BILLING CODE 4310–70–P

Weir Farm National Historic Site, Wilton and Ridgefield, CT; Draft General Management Plan/ Environmental Impact Statement; Availability and Public Comment Period

In accordance with the National Environmental Policy Act (Pub. L. 91–190) the National Park Service (NPS) announces that the Weir Farm National Historic Site Draft General Management Plan and Environmental Impact Statement will be available for public review and comment from May 16 to July 18, 1994.

The draft document presents three alternatives for managing the site and addressing planning issues, including resource preservation and provision of visitor services. Once approved, the final plan will guide the management of the site for fifteen to twenty years.

During the sixty-day comment period, interested persons may review the document and provide written comments to the Superintendent, Weir Farm National Historic Site, 735 Nod Hill Road, Wilton, CT 06897.

The NPS will distribute a summary of the draft plan to the site's mailing list, interested individuals and institutions. The NPS will then distribute a complete version of the draft to federal, state, regional, and local agencies. Both

versions will be available at local libraries and at Weir Farm National Historic site. The NPS will hold public meeting(s) during the sixty-day period and will advertise the meeting(s) in local media outlets.

Queries and requests for copies of the complete draft or of the summary of the draft should be directed to Weir Farm National Historic Site at (203) 834–1896.

Dated: April 29, 1994.

John C. Reed,

Deputy Regional Director.

[FR Doc. 94–10880 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–70–P

Cap Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, May 20, 1994.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of section 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Park Headquarters, Marconi Station for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Superintendent's Report
6. GMP subcommittee recommendations
7. Dune shack leasing
8. Transportation
9. New Business
10. Agenda for next meeting
11. Date for next meeting
12. Communications/Public Comment
13. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: April 29, 1994.

John C. Reed,

Deputy Regional Director.

[FR Doc. 94–10881 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–70–M

Gates of Arctic National Park Subsistence Resource Commission; Meeting

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairpersonof the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order.
(2) Roll call.
(3) Approval of summary of minutes.
(4) Review agenda.
(5) Superintendent's introductions and review of SRC function and purpose.
(6) Superintendent's Management Reports.
(7) Public and other agency comments.
(8) Old business:
  (a) Review Resource Management Plan.
  (b) Review letter on Federal Region 10 boundary.
(9) Set time and date of next meeting.
(10) Adjournment.

DATES: The meeting will be held on Tuesday and Wednesday, May 10 and 11, 1994. The meeting will begin at 8:30 a.m. and conclude around 5 p.m. each day.

LOCATION: The meeting will be held at Sophie's Station Hotel in Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Stephen P. Martin, Superintendent, PO Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of of the Federal Advisory Committees Act.

Paul R. Anderson,

Deputy Regional Director.

[FR Doc. 94–10875 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–70–M

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 1:30 p.m. (PDT) on Saturday, May 14, 1994, at the Dance Palace, corner of 5th and B Streets, Point Reyes Station, California to hear presentations on issues related to management of the Point Reyes National Seashore and adjoining Golden Gate National Recreation lands.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

Included on the agenda for this public meeting will be:

1. Point Reyes issues.
  A. National Parks Week (May 15–21).
  B. International Migratory Bird Day.
  C. Report on Range Conditions.
  D. Report on Proposed Environmental Education Center Annex and the Completion of Bull Point and Estero Trailheads.
  E. Report on Preliminary Plan for Revamping Bear Valley Trailhead Parking Area and Replacing South Beach Restroom.
2. GGNRA issues: Presentation of Staff Report on Giacomini Wetlands Restoration Feasibility Study.

Public officials are invited to express their views in person at the May 14 public meeting. This meeting will be recorded for documentation and transcribed for dissemination. Minutes

of the meeting will be available to the public after approval of the full Advisory Commission. A transcript for this meeting will be available after June 3, 1994. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: April 28, 1994.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 94–10876 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–70–P

Sudbury, Assabet and Concord Rivers Wild and Scenic Study, MA; Sudbury, Assabet and Concord Rivers Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1 sec. 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, May 26, 1994.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in section 5(a)(110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m. at the Great Meadows National Wildlife Refuge Headquarters (GMNWR), in Sudbury, MA. Driving directions are as follows: From south—take Rte. 27 to Water Row in Sudbury, turn right at end on to Lincoln Road, left on Weir Hill Road, follow signs to GMNWR Headquarters. From north—from Concord Road, turn left on Lincoln Road in Sudbury, left on Weir Hill Road, follow signs for GMNWR Headquarters. Or, take Rte. 126 north or south to Sherman's Bridge Road, cross Sudbury River, turn right on Weir Hill Rd.

The agenda for the meeting will be:

I. Welcome and introductions, approval of minutes from 3/24/94 meeting.
II. Brief questions and comments from public.
III. Brief Water Resources and Public Participation Subcommittee Reports.
  A. Water Resources Subcommittee: Water Resources Study.
  B. Public Participation Subcommittee; June Event.
IV. Issues of Local Concern.
V. Opportunity for public questions and comments.
VI. Other Business.
  A. Next meeting dates and locations.

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Further information concerning the meeting may be obtained from Cassie Thomas, Planner, National Park Service, 15 State Street, Boston, MA 02109 or call (617) 223–5014.

Dated: April 29, 1994.

John C. Reed,

Acting Regional Director.

[FR Doc. 94–10882 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through December 31, 1994, and contract actions that have been completed or discontinued since the last publication of this notice on January 21, 1994. From the date of this publication, future quarterly notices will be limited to modified, new, completed or discontinued contract actions. This annual notice should be used as a point of reference to identify changes in future notices. This notice is one of a variety of means being used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by the Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. These public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Christopher L. Kenney, Acting Chief, Contracts and Repayment Division, Bureau of Reclamation, 1849 C Street NW., Washington, DC 20240; telephone 202–208–3014.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in 52 FR 11954, April 13, 1987, Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided below of all proposed contractual actions in each of the five Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process in 1994. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made

available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate Reclamation officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP) Boulder Canyon Project
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(CRSP) Colorado River Storage Project
(D&MC) Drainage and Minor Construction
(FR) Federal Register
(IDD) Irrigation and Drainage District
(ID) Irrigation District
(M&I) Municipal and Industrial
(O&M) Operation and Maintenance
(P–SMBP) Pick-Sloan Missouri Basin Program
(Pub. L.) Public Law
(R&B) Rehabilitation and Betterment
(SRPA) Small Reclamation Projects Act
(WCUA) Water Conservation and Utilization Act
(WD) Water District

PACIFIC NORTHWEST REGION: Bureau of Reclamation, 1150 North Curtis Road, Boise, Idaho 83706–1234, telephone 208–378–5342.

1. Cascade Reservoir Water Users, Boise Project, Idaho: Repayment contracts for irrigation and M&I water; 19,201 acre-feet of stored water in Cascade Reservoir.

2. Irrigation, M&I, and Miscellaneous Water Users; Columbia Basin, Crooked River, Minidoka, Rathdrum Prairie, Rogue River Basin, and Umatilla Projects; Idaho, Montana, Oregon, and Washington: Temporary or interim repayment and water service contracts for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

3. Rogue River Basin Water Users, Rogue River Project, Oregon: Water service contracts; $5 per acre-foot or $50 minimum per annum for the term of the contract.

4. Willamette basin Water Users, Willamette Basin Project, Oregon: Water service contracts.

5. American Falls Reservoir District Number 2, Burgess Canal Company, Clark and Edwards Canal and Irrigation Company, Craig-Mattson Canal Company, Danskin Ditch Company, Enterprise Canal Company, Ltd., Farmers Friend Irrigation Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Long Island Irrigation Company, Parks and Lewisville Irrigation Company, Ltd., Parson Ditch Company, Peoples Canal and Irrigation Company, Poplar ID, Rigby Canal and Irrigation Company, Rudy Irrigation Canal Company, Ltd., Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat ID, Wapinitia Project, Oregon; Roza ID, Yakima Project, Washington: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

6. City of Cle Elum, Yakima Project, Washington: Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for the term of the contract.

7. Baker Valley ID, Baker Project, Oregon: Irrigation water service contract on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for the term of the contract.

8. Willow Creek Water Users, Willow Creek Project, Oregon: Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

9. Bridgeport ID, Chief Joseph Dam Project, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

10. Hermiston ID, Umatilla Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Cold Springs Dam.

11. Ochoco ID and Various Individual Spaceholders, Crooked River Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Arthur R. Bowman and Ochoco Dams.

12. The Dalles ID, The Dalles Project, Oregon: SRPA loan repayment contract; proposed loan obligation of approximately $2,000,000.

13. State of Idaho, Payette Division of the Boise Project, Idaho: Proposed repayment contracts with the State of Idaho for the sale of uncontracted space in Cascade and Deadwood Reservoirs.

14. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 2,300 acre-feet of water.

15. Douglas County, Milltown Hill Project, Oregon: SRPA loan repayment contract; proposed loan obligation of approximately $24.5 million and grant of approximately $5.8 million.

16. Mitigation, Inc., Palisades/Ririe Projects, Idaho: Contract for storage space in Palisades and Ririe Reservoirs (18,980 and 80,500 acre-feet, respectively) pursuant to section 5(a) of the Fort Hall Indian Water Rights Act of 1990.

17. U.S. Fish and Wildlife Service, Boise Project, Idaho: Irrigation water service contract for the use of approximately 200 acre-feet of storage space annually in Anderson Ranch Reservoir. Water to be used on crops for wildlife mitigation purposes.

18. City of Madras, Deschutes Project, Oregon: Renewal or replacement of municipal water service contract for approximately 125 acre-feet annually from the project water supply.

19. Willamette Basin water users, Willamette Basin Project, Oregon: Add language to water service contract to provide for periodic reviews, with adjustments if necessary to mitigate for impacts to natural resources.

20. Willamette Basin water users, Willamette Basin Project, Oregon: Two water service contracts for the exchange of up to 225 acre-feet of water for diversion above project reservoirs.

21. Lewiston Orchards ID, Lewiston Orchards Project, Idaho: Repayment contract for reimbursable cost of dam safety repairs to Reservoir "A."

22. North Unit ID, Deschutes Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Wickiup Dam.

No contract actions have been completed or discontinued in the Pacific Northwest Region since this notice was last published on January 21, 1994.

MID-PACIFIC REGION: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5030.

1. Tuolumne Utility District (formerly Tuolumne Regional WD), CVP, California: Water service contract for up to 9,000 acre-feet from New Melones Reservoir.

2. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, California, Oregon, and Nevada: Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet annually. *Note.* Copies of the standard forms of temporary water service contracts for the various types of service are available upon written request from the Regional Director at the address shown above.

3. Contractors from the American River Division, Buchanan Division, Cross Valley Canal, Delta Division, Friant Division, Hidden Division, Sacramento River Division, Shasta Division, and Trinity River Division, CVP, California: Renewal of existing long-term water service contracts with contractors whose contracts expire in December 1994 and 1995; water quantities in existing contracts range from 400 to 175,440 acre-feet. These contract actions will be accomplished through interim renewal contracts pursuant to Pub. L. 102–575.

4. Contra Costa WD, CVP, California: Amendatory water service contract to add the operation of the Los Vaqueros Project, including an additional point of delivery; the amendment will also conform the contract to current Reclamation policies, including the water ratesetting policy, and Pub. L. 102–575.

5. Redwood Valley County WD, SRPA, California: District is considering restructuring the repayment schedule pursuant to Pub. L. 100–516 or prepaying the loan at a discounted rate pursuant to Pub. L. 102–575.

6. Truckee Carson ID, Newlands Project, Nevada: New repayment contract for the unpaid construction cost repayment obligation from the original contract which was terminated on August 17, 1983, by the U.S. district Court in Nevada.

7. San Louis WD, CVP, California: Amendatory water service contract to provide that the District pay full O&M rate for all deliveries resulting from the Azhderian Pumping Plant enlargement and the cost of service rate for such deliveries beginning in 1996 and each year thereafter.

8. City of Redding, CVP, California: Amendment to Contract No. 14–06–200–5272A to add a point of diversion at the turnout, Spring Creek Power Conduit, to facilitate proposed water treatment plant for Buckeye service area. This amendment will also conform the contract to current Reclamation policies, including the water ratesetting policy, and Pub. L. 102–575.

9. Century Ranch Water Company, Inc., CVP, California: Long-term exchange contract for M&I, less than 100 acre-feet; Stony Creek Watershed above Black Butte Dam.

10. State of California, Department of Forestry, CVP, California: Water right exchange agreement, less than 100 acre-feet, above Black Butte Dam.

11. San Luis WD, CVP, California: Amendment to Contract No. 14–06–200–7773A to include assigned lands and allocated share of CVP water supply to San Luis WD from Romero WD.

12. Romero WD, CVP, California: Amendment to Contract No. 14–06–200–7758 to assign lands and allocated share of CVP water supply to San Luis WD.

13. Sacramento River water rights settlement contractors, CVP, California: Contract amendment for assignment under voluntary land ownership transfers to provide for the current CVP water rates and update standard contract articles.

14. Sierra Pacific Power Company, Pyramid Lake Tribe, Washoe County Water Conservation District; Washoe and Truckee-Storage Projects; Nevada and California: Interim storage contract, authorized under Pub. L. 101–618, and the provision of the Warren Act as supplemented by the Reclamation States Emergency Drought Act to convey and/or store non-project water in Stampede Reservoir and in Boca Reservoir.

15. Naval Air Station and Truckee Carson ID, Newlands Project, Nevada: Amend water service Agreement No. 14–06–400–1024 for the use of project water on Naval Air Station land.

16. Del Puerto WD, CVP, California: Amend water service Contract No. 14–06–200–922 to include M&I use.

17. El Dorado County Water Agency, San Juan Suburban WD, and Sacramento County Water Agency, CVP, California: M&I water service contract to supplement existing water supply: 15,000 acre-feet for El Dorado County Water Agency, 13,000 acre-feet for San Juan Suburban WD, and 22,000 acre-feet for Sacramento County Water Agency, authorized by Pub. L. 101–514.

18. Non-Federal entity, CVP, California: Cost-sharing agreement with a yet to be determined non-Federal entity for the Folsom Dam and Reservoir reoperation.

19. Central Coast Water Authority, Cachuma Project, California: Long-term Warren Act contract for use of Cachuma Project facilities when excess capacity exists. Approximately 13,750 acre-feet of water per year from the California State Water Project will be made available under a Warren Act contract to users along the South Coast of California.

20. California Department of Fish and Game, CVP, California: Renewal of existing long-term agreement for furnishing water for fish hatchery purposes.

21. Widren WD, CVP, California: Amend water service Contract No. 14–06–200–8018 to include M&I use, conform to Pub. L. 102–575 and assign water supply to City of Tracy.

22. Gateway WD, CVP, California: Combine by assignment twelve Delta-Mendota Canal water service contracts into 1-entity to be renamed Gateway WD for administrative and operation purposes.

23. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD; CVP; California: Water service contracts to provide Level II water supplies for refuges within the CVP pursuant to Pub. L. 102–575; exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; quantity to be contracted for is approximately 450,000 acre-feet.

24. Monterey County Water Resources Agency, Castroville Irrigation Water Supply Project, SRPA, California: Loan repayment contract in the amount of $32,600,000 to construct an irrigation distribution system to reduce sea water intrusion in the ground water aquifers.

25. Monterey Regional Water Pollution Control Agency, Water Reclamation Facility for Crop Irrigation Project, SRPA, California: Loan repayment contract in the amount of $20,544,400 to reduce sea water intrusion in the ground water aquifers.

26. State of California, CVP, California: Cost sharing agreement with State of California pursuant to CVP Improvement Act (Pub. L. 102–575). The cost sharing agreement with the State will provide for the general principles and administration of cost sharing for and implementation of specific restoration actions identified in Pub. L. 102–575.

27. Santa Barbara County Water Agency, Cachuma Project, California: Renewal of existing long-term water service contract which expires May 14, 1995; water quantity in existing contract 32,000 acre-feet.

28. United Water Conservation District, SRPA, California: District can prepay the loan at a discounted rate pursuant to Pub. L. 102–575.

29. San Juan Suburban WD and the Place County Water Agency, CVP, California: Renewal of existing long-term wheeling contract allowing the Agency to use CVP facilities to deliver its water to the District for use on District land within Placer County.

30. Mountain Gate Community Services District, CVP, California: Amendment of existing long-term water service contract to include right to renew. This amendment will also conform the contract to current Reclamation law, including Pub. L. 102–575.

The following contract actions have been completed or discontinued in the Mid-Pacific Region since this notice was last published on January 21, 1994:

1. Proposed Action: Madera Irrigation District (ID), Hidden Division, Central Valley (CVP), California: Renewal of existing water service contract for 24,000 acre-feet of water which expires February 28, 1994. This contract action will be accomplished through interim contracts pursuant to Pub. L. 102–575. ACTION: Interim contract executed on February 28, 1994, Contract No. 14–06–200–4020IR. Long-term contract remains to be completed.

2. Proposed Action: Chowchilla Water District, Buchanan Division, CVP, California: Renewal of existing water service contract for 24,000 acre-feet of water which expires February 28, 1994. This contract action will be accomplished through interim contracts to Pub. L. 102–575. ACTION: Interim contract executed on February 28, 1994, Contract No. 14–06–200–3844IR. Long-term contract remains to be completed.

3. Proposed Action: U.S. Department of Veterans Affairs, CVP, California: Long-term contract, for M&I water purposes in support of the new San Joaquin Valley National Cemetery near Santa Nella, California. ACTION: Contract executed January 1, 1993, Contract No. 3–07–20–W1124.

4. Proposed Action: IDs and similar water user entities, CVP, California: Amendatory water service contracts; to change the definition of "year" to conform to the standard CVP water year of March 1 through the end of February. ACTION: All applicable contracts have been amended.

5. Proposed Action: Pershing County Water Conservation District, Humboldt Project, Nevada: Safety of Dams Repayment contract for modification of Rye Patch Dam; reimbursable obligation of the District approximately $1,050,000. ACTION: District not interested in modification to dam as it is presently envisioned.

6. Proposed Action: Shasta Dam Area Public Utility District, CVP, California: Renewal of existing temporary contract which expires February 28, 1994; water quantity in contract is 2,750 acre-feet. This contract action will be accomplished through interim contracts pursuant to Pub. L. 102–575. ACTION: Contract executed March 1, 1994, Contract No. 4–07–20–W1134. Contractor also changed name to the City of Shasta Lake.

LOWER COLORADO REGION: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

1. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts for percentages of available supply reallocated in 1992 for irrigation entities and up to 640,000 acre-feet per year allocated in 1983 for M&I use.

2. Milton and Jean Phillips, Kenneth or Ann Easterday, Robert E. Harp, Cameron Brothers Construction Co., Ogram Farms, Bruce Church, Inc., Stephen Sturges, Sunkist Growers, Inc., Clayton Farms, BCP, Arizona: Water service contracts, as recommended by Arizona Department of Water Resources, with agricultural entities located near the Colorado River for up to an additional 15,557 acre-feet per year total.

3. Arizona State Land Department, State of Arizona, BCP, Arizona: Contract for 6,607 acre-feet per year of Colorado River water for agricultural use and related purposes on State-owned land. This contract action reflects an increase in a prior contract recommendation in the amount of 6,292 acre-feet per year.

4. Armon Curtis, Arlin Dulin, Jacy Rayner, Glen Curtis, Jamar Produce Corporation, and Ansel T. Hall, BCP, Arizona: Water service contracts; purpose is to amend their contracts to exempt them from the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Indian and non-Indian agricultural and M&I water users. CAP, Arizona: New and amendatory contracts for repayment of Federal expenditures for construction of distribution systems.

6. Cibola Valley IDD, BCP, Arizona: Cibola Valley IDD is looking at the possibility of transferring, leasing, selling, or banking its entitlement of 22,560 acre-feet, for use in Arizona, California, and Nevada.

7. Ft. Yuma Indian Reservation (Quechan Indian Reservation), Yuma Project, Arizona and California: Surplus water contract to receive Colorado River water in the States of Arizona and California. The contract may include surplus and unused apportionment entitlements (51,616 acre-feet or 7,743 acres, whichever is less) and wheeling arrangements with Bard ID.

8. Imperial ID, Lower Colorado Water Supply Project, California: Contract providing for administration, operation, maintenance, and replacement of the project well field.

9. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the All-American Canal from a well field to be constructed adjacent to the canal.

10. County of San Bernardino, San Sevaine Creek Water Project, SRPA, California: Project and loan repayment contracts are under reformulation.

11. Tohono O'odham Nation, SRPA, Arizona: Repayment contract for a $7.3 million loan for the Schuk Toak District.

12. Bullhead City, Consolidated Water Co., Lake Havasu City, Havasu Water Co., Quartzsite, McAllister Subdivision, City of Parker, Marble Canyon, and Arizona State Land Department, BCP, Arizona: Contracts for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona for up to 15,146 acre-feet per year as recommended by the Arizona Department of Water Resources.

13. National Park Service for Lake Mead National Recreation Area, Supreme Court Decree in *Arizona* v. *California*, and BCP in Arizona and Nevada: Memorandum of Understanding for delivery of Colorado River water for the National Park Service's Federal Establishment present perfected right of 500 acre-feet of diversions annually, and the National Park Service's Federal Establishment perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

14. Imperial ID/Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve All-American Canal seepage water in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

15. Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve seepage water from the Coachella Branch of the All-American Canal in accordance with Title II of the San Luis Rey Indian Water

Rights Settlement Act, dated November 17, 1988.

16. Elsinore Valley Municipal WD, Temescal Valley Project, SRPA, California: Repayment contract for a $22.3 million loan.

17. Mohave Valley ID, BCP, Arizona: Amendment of current contract for additional Colorado River water, change in service areas, diversion points, and RRA exemption.

18. Miscellaneous present perfected rights entitlement holders, BCP, Arizona and California: Contracts for entitlements of Colorado River water as decreed by the U.S. Supreme Court in *Arizona* v. *California*, as supplemented or amended, and as required by section 5 of the BCP. Miscellaneous present perfected rights holders are listed in the *Arizona* v. *California* settlement.

19. Federal Establishment present perfected rights entitlement holders: Individual contracts for administration of Colorado River water entitlements of the Colorado River, Fort Mojave, Quechan, Chemehuevi, and Cocopah Indian Tribes.

20. Yuma County Water Users' Association, Yuma Project, Arizona: Contract to enable the Association to administer non-irrigation water within its service area.

21. City of Yuma, BCP, Arizona: Amendment to Contract No. 14–067–W–106 for additional points of diversion.

22. Imperial ID and The Metropolitan WD of Southern California, BCP, California: Temporary contract to store approximately 200,000 acre-feet of water that is expected to be saved over a 2-year period under a test water savings program that involves land fallowing and a modified irrigation plan for alfalfa.

23. Crystal Beach Water Conservation District, BCP, Arizona: Contract for delivery of 132 acre-feet per year of Colorado River water for domestic use, as recommended by the Arizona Department of Water Resources.

24. Robert B. Griffith Water Project, BCP, Nevada: Revision of water delivery contract to amend points of diversion.

25. Southern Nevada Water Authority, BCP, Nevada: Assignment or transfer of 14,550 acre-feet of Basic Management, Inc.'s water entitlement to the Southern Nevada Water Authority as a result of Basic Management, Inc.'s water conservation efforts.

26. Santa Ana Watershed Project Authority, SRPA, California: Chino Basin Desalination Program, environmental cleanup to remove salt from ground water, $32 million project.

27. Gila River Indian Community/Gila River Farms, CAP, Arizona: Repayment/deferment/O&M contract for distribution system not to exceed $4 million. Execution of this contract facilitates construction under Pub. L. 93–638 funding and work performance contract.

28. Gila River Farms, SRPA, Arizona: Amendatory contract to reschedule payments due in 1991, 1992 and subsequent years in line with payment capacity.

29. Bureau of Land Management, BCP, Arizona: Contract for 1,176 acre-feet per year, for agricultural use, of Arizona's Colorado River water that is not used by higher priority Arizona entitlement holders.

30. Curtis Family Trust et al., BCP, Arizona: Contract for 2,100 acre-feet per year of Colorado River water for agricultural water.

31. Beattie Farms SW, BCP, Arizona: Contract for 1,890 acre-feet per year of unused Arizona entitlement for agricultural use.

32. Section 10 Backwater, BCP, Arizona: Contract for 250 acre-feet per year of unused Arizona entitlement for environmental use until a permanent water supply can be obtained.

33. Central Arizona Water Conservation District, CAP, Arizona: Amendment of the contract between the United States and Central Arizona Water Conservation District for the delivery of water and repayment of costs of the CAP (Master Repayment Contract) to increase the repayment ceiling set forth in subarticle 9.3(e) from $2.0 billion to $2.3 billion.

34. Mohave County, BCP, Arizona: Assignment, transfer, or reallocation of 18,500 acre-feet of water from the City of Kingman to a new water authority being formed to serve Mohave County.

35. Yuma Mesa Irrigation and Drainage District, Gila Project, Arizona: Amendment to provide for increase in domestic water allocation (from 10,000 to 20,000 acre-feet) within its overall use in the district.

The following contract actions have been completed or discontinued in the Lower Colorado Region since this notice was last published on January 21, 1994:

1. Proposed Action: Southern Arizona Water Rights Settlement Act: Sale of up to 28,200 acre-feet per year of municipal effluent to the City of Tucson, Arizona. ACTION: Sale will be coordinated by the Bureau of Reclamation's Native American Affairs Division in Phoenix, Arizona.

2. Proposed Action: Town of Payson, Central Arizona Project (CAP), Arizona: Assignment of Payson's CAP water entitlement of 4,995 acre-feet per year to the City of Scottsdale, ACTION: Contract assigned March 23, 1994, No Assignment Number.

UPPER COLORADO REGION: Bureau of Reclamation, P.O. Box 11568, (125 South State Street), Salt Lake City, Utah 84147, telephone 801–524–5435.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use.

2. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

3. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

4. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use.

5. La Plata Conservancy District, Animas-La Project, New Mexico: Repayment contract for 9,900 acre-feet per year for irrigation use.

6. Vermejo Conservancy District, Vermejo Project, New Mexico: Amend contract pursuant to Pub. L. 96–550 to relieve the district of the requirement to make annual payments until the Secretary of the Interior determines that further payments are feasible; the current obligation exceeds $2 million.

7. San Juan Pueblo, San Juan-Chama Project, New Mexico: Repayment contract for up to 2,00 acre-feet of project water for irrigation purposes.

8. City of El Paso, Rio Grande Project, Texas and New Mexico: Amendment to the 1941 and 1962 contracts to expand acreage owned by the City to 3,000 acres; extend terms of water rights authority of the Public Service Board.

9. Mancos Water Conservancy District, Mancos Project, Colorado: Amendatory contract to remove contract restrictions that prevent the Mancos project.

10. The National Park Service, Bureau of Land Management, Colorado Water Conservation Board, Wayne N. Aspinall Unit, CRSP, Colorado: Contract for between 180,000 to 740,000 acre-feet of project water to provide specific river flow patterns in the Gunnison River through the Black Canyon of the Gunnison National Monument.

11. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Water service contract for 500 acre-feet for 1-year for municipal and domestic use.

12. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Substitute supply plan for the administration of the Gunnison River.

13. Collbran Conservancy District, Collbran Project, Colorado: Amendatory contract defining priority of use of project water.

14. U.S. Fish and Wildlife Service, North Fork Water Conservancy District, Paonia Project, Colorado: Contract for releases to support endangered fish in the Gunnison and Colorado Rivers; water available for releases will come from reserve capacity held by Reclamation as a sediment pool, estimated to be 1,800 acre-feet annually; contract will define the terms and conditions associated with delivery of this water.

15. Rio Grande Water Conservation District, Closed Basin Division, San Luis Valley Project, Colorado: Water service contract for furnishing priority 4 water to third parties; contract will allow District to market priority water, when available, for agricultural, municipal and/or industrial use.

16. Uncompahgre Valley Water Users Association, Upper Gunnison River Water Conservancy District, Colorado River Water Conservation District, Uncompahgre Project, Colorado: Water management agreement for water stored at Taylor Park Reservoir and the Wayne N. Aspinall Storage Units to improve water management.

17. Central Utah Water Conservancy District, Provo River Water Users Association, CUP, Utah: Operating agreement for the Jordanelle Reservoir and the Deer Creek Reservoir pursuant to Section 209 of Pub. L. 102–575.

The following contract actions have been completed or discontinued in the Upper Colorado Region since this notice was last published on January 21, 1994.

1. Proposed Action: Emery Water Conservancy District, Emery County Project, Utah: Repayment contract for installation of early warning system for Joe's Valley Dam pursuant to safety of dams legislation. Action: Contract executed January 4, 1994, Contract No. 94–07–40–R1630.

GREAT PLAINS REGION: Bureau of Reclamation, P.O. Box 36900, Federal Building 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–657–6413.

1. Individual irrigators, M&I, and miscellaneous water users; Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, Nebraska, Oklahoma, and Texas: Temporary (interim) water service contracts for the conveyance, storage, and exchange of surplus project water and nonproject water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5-years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Fort Shaw ID, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

3. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts for irrigation, municipal, and industrial purposes; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

4. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Repayment contracts; second round contract negotiations for municipal, domestic, and industrial water from the regulatory capacity of Ruedi Reservoir pending completion of NEPA review.

5. Cedar Bluff ID No. 6 Cedar Bluff Unit, P–SMBP, Kansas: In accordance with Section 901 of Pub. L. 102–575, 106 Stat. 4600, terminate the Cedar Bluff Irrigation District's repayment contract and transfer use of the District's portion of the reservoir storage capacity to the State of Kansas for fish, wildlife, recreation, and other purposes.

6. Garrison Diversion Unit, P–SMBP, North Dakota: Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to conform with the Garrison Diversion Unit Reformulation Act of 1986; negotiation of repayment contracts with irrigators and M&I users.

7. Corn Creek ID, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir.

8. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

9. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs of the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

10. Chinook Water Users Association, Milk River Project, Montana: SRPA contract for loan of up to $6,000,000 for improvements to the Association's water conveyance system.

11. Midvale ID, Riverton Unit, P–SMBP, Wyoming: Long-term contract for water service from Boysen Reservoir.

12. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Contingent upon passage of authorizing legislation, negotiate amendatory contract to increase irrigable acreage within the project.

13. Canadian River Municipal Water Authority, Canadian River Project, Texas: Amendatory contract to reflect credit for project lands transferred to the National Park Service under Pub. L. 101–628 for the Lake Meredith National Recreation Area.

14. Lakeview ID, Shoshone Project, Wyoming: new long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir.

15. Hidalgo County ID No. 6, Texas: SRPA contract for a 20-year loan for up to $5,712,900 to rehabilitate the District's irrigation facilities.

16. City of Rapid City and Rapid Valley Water Conservancy District, Rapid Valley Unit, P–SMBP, South Dakota: Contract renewal for up to 55,000 acre-feet of storage capacity in Pactola Reservoir.

17. Thirty Mile Canal Company, Nebraska: SRPA contract for a loan of $2,264,000 to reline the main canal, replace open laterals with buried pipe, and replace bridges.

18. City of Estes Park, Colorado-Big Thompson Project, Colorado: Modification of water service contract to change point of diversion and other administrative revisions.

19. North Platte Projects and Glendo Unit, P–SMBP, Wyoming and Nebraska contractors: Repayment contracts under the safety of dam programs for the modification of Pathfinder, Guernsey, and Glendo Dams.

20. State of Colorado, Armel Unit, P–SMBP, Colorado: Repayment contract under the safety of dams program for the modification of Bonny Dam.

21. Ainsworth ID, Almena ID, Bostwick ID, Frenchman-Cambridge ID, Frenchman Valley ID, Kansas-Bostwick ID, Kirwin ID, Loup Basin Reclamation District, Webster ID; P–SMBP; Kansas and Nebraska: Renewal of existing water service and repayment contracts for irrigation water supplies, pending completion of NEPA review.

22. Mountain Park Master Conservancy District, Mountain Park

Project, Oklahoma: In accordance with Section 3102 of Pub. L. 102–575, 106 Stat. 4600, amend the District's contract to either reflect a discounted prepayment of the City of Fredrick's obligation for the reimbursable costs of its M&I water supply or to reschedule its payments based on ability to pay.

23. Northern Cheyenne Indian Reservation, Montana: In accordance with Section 9 of the Northern Cheyenne Reserved Water Rights Settlement Act 1992, the U.S. and the Northern Cheyenne Indian Tribe are proposing to contract for 30,000 acre-feet per year of stored water from Bighorn Reservoir, Yellowtail Unit, Lower Bighorn Division, P–SMBP, in Montana. The Tribe will pay the U.S. both captial and O&M costs associated with each acre-foot or water the Tribe sells from this storage for M&I purposes.

24. Canadian River Municipal Water Authority, Canadian River Project, Texas: Contract for the United States to pay up to 33 percent of the costs of the salinity control project. These costs are to used for the design and construction management of the project facilities.

25. Mid-Dakota Rural Water System, Inc., South Dakota: Pursuant to the Reclamation Projects Authorization and Adjustment Act of 1992, the Secretary of the Interior is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a non-profit corporation for the planning and construction of a rural water supply system.

26. Angostura ID, Angostura Unit, P–SMBP: The District's current contract for water services expires on January 1, 1995. The current contract also provides for the District to operate and maintain the dam and reservoir. The proposed contract would provide a continued water supply for the District and the District's continued operation and maintenance of the facility.

27. West River Conservancy Sub—District, Shadehill Unit, P–SMBP, South Dakota: Water service contract expires June 10, 1995. The proposed contract would provide irrigation water to the District pursuant to terms acceptable to both the United States and the District.

The following contract actions have been completed or discontinued in the Great Plains Region since this notice was last published on January 21, 1994:

1. Proposed Action: East Bench Irrigation District, East Bench Unit, P–SMBP, Montana: Drainage and Minor Construction (D&MC) contract for $300,000 for minor construction work for up to a 10-year period. ACTION: Alternative means of conveying funds were utilized.

2. Proposed Action: Belle Fourche Irrigation District, Belle Fourche Unit, Pick-Sloan Missouri Basin Program (P–SMBP), South Dakota: Amendment to D&MC contract to extend work through 1995 and provide an additional $1 million to complete the work. ACTION: Alternative means of conveying funds were utilized.

Dated: May 2, 1994.

J. Austin Burke,

Director, Operations.

[FR Doc. 94–10996 Filed 5–5–94; 8:45 am]

BILLING CODE 4310–94–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31989]

The Elk River Railroad, Inc.—Construction and Operation Exemption—Clay and Kanawha Counties, WV

The Commission's Section of Environmental Analysis (SEA) hereby notifies all interested parties that SEA will prepare a Draft Environmental Impact Statement (DEIS) and conduct scoping meetings in this proceeding. The Elk River Railroad, Inc. (TERRI) filed a petition for exemption seeking authority to construct and operate a 30-mile line of railroad from Hartland to Falling Rock, in Clay and Kanawha Counties, WV. Because of the proposed construction and operation's potential for significant environmental impacts, SEA has determined that preparation of a DEIS is necessary.

The DEIS will address the environmental impacts associated with this proposed construction and operation and will be served on all the parties to the proceeding and made available to the public. There will be a 45 day comment period from the date the DEIS is served to allow the public opportunity to comment. After assessing all of the comments to the DEIS, SEA will then issue a Final Environmental Impact Statement (FEIS) that will include SEA's final recommendations to the Commission. The Commission will consider the FEIS and the environmental record in making its decision.

The purpose of the scoping process is to identify significant environmental issues and determine the scope of issues to be addressed in the DEIS. Issues typically addressed in DEIS's include alternatives to the proposed action, impacts on transportation systems, land use, socio-economic impacts directly related to changes in the physical environment, energy resources, air quality, noise quality, public health and safety, biological resources, water quality, historic resources, coastal zone management consistency review, and mitigation to reduce or avoid impacts on the environment. Persons that cannot attend the scoping meetings may submit questions and comments in writing up to 30 days after the scoping meetings. Written comments may be submitted directly to the Commission no later than July 1, 1994. Public scoping meetings will be held on the following dates:

- May 31, 1994, from 3 p.m. to 7 p.m at the Clendenin Community Center (next to the Town Hall) and
- June 1, 1994, from 4 p.m. to 7:30 p.m. at the Clay High School Cafeteria.

FOR FURTHER INFORMATION CONTACT: Michael J. Dalton at (202) 927–6202 or Vicki Dettmar at (202) 927–6211, Section of Environmental Analysis, Room 3219, Office of Economic and Environmental Analysis, 12th and Constitution Avenue, NW., Interstate Commerce Commission, Washington, DC 20423. TDD for hearing impaired: (202) 927–5721.

By the Commission, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10983 Filed 5–5–94; 8:45 am]

BILLING CODE 7035–01–P

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 contained provisions for the

payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I

Pennsylvania
PA940066 (May 6, 1994)

Volume V

Missouri
MO940064 (May 6, 1994)
MO940065 (May 6, 1994)
MO940066 (May 6, 1994)
MO940067 (May 6, 1994)
MO940068 (May 6, 1994)
MO940069 (May 6, 1994)

Volume VI

Washington
WA940027 (May 6, 1994)

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

New Jersey
NJ940002 (Feb. 11, 1994)
NJ940003 (Feb. 11, 1994)
NJ940004 (Feb. 11, 1994)

Volume II

District of Col
DC940001 (Feb. 11, 1994)
Maryland
MD940048 (Feb. 11, 1994)
Pennsylvania
PA940030 (Feb. 11, 1994)
Virginia
VA940104 (Feb. 11, 1994)

Volume III

Alabama
AL940034 (Mar. 25, 1994)
Florida
FL940002 (Feb. 11, 1994)
Kentucky
KY940001 (Feb. 11, 1994)
KY940002 (Feb. 11, 1994)
KY940004 (Feb. 11, 1994)
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KY940027 (Feb. 11, 1994)
KY940028 (Feb. 11, 1994)
KY940029 (Feb. 11, 1994)
KY940035 (Feb. 11, 1994)

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Illinois
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MN940039 (Mar. 25, 1994)
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MN940044 (Mar. 25, 1994)
MN940045 (Mar. 25, 1994)
MN940046 (Mar. 25, 1994)
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MN940049 (Apr. 1, 1994)
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OH940036 (Feb. 11, 1994)

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KS940009 (Feb. 11, 1994)
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North Dakota
ND940026 (Apr. 1, 1994)
South Dakota
SD940006 (Feb. 11, 1994)
Washington
WA940017 (Feb. 11, 1994)
WA940025 (Feb. 11, 1994)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) 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 29th Day of April 1994.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 94–10685 Filed 5–5–94; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–28,782]

Torch Operating Company; Houma, LA; and Operating in the Following States: TA–W–28,782A TX; TA–W–28,782B MS; TA–W–28,782C AR; Amended Certification 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 issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of Torch Operating Company, Houma, Louisiana. The certification notice was issued on July 30, 1993 and published in the **Federal Register** on August 17, 1993 (58 FR 43657).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that some of the claimants' wages are reported under an unemployment insurance (UI) tax account in Texas, Mississippi and Arkansas. Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–28,782 is hereby published as follows: All workers of Torch Operating Company, Houma, Louisiana and operating at locations in Texas, Mississippi and Arkansas who became totally or partially separated from employment on or after May 15, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 25th day of April, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–10928 Filed 5–5–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,592]

Valdese Textiles, Incorporated; New York, NY; 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 Valdese Textiles, Incorporated, New York, 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–29,592; Valdese Textiles, Incorporated, New York, New York (April 25, 1994)

Signed at Washington, DC this 26th day of April, 1994.

Violet L. Thompson,

Deputy Director, Office of Adjustment Assistance.

[FR Doc. 94–10929 Filed 5–5–94; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(a) of subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under subcphapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request is filed in writing with the Director of OTAA not later than May 16, 1994.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than May 16, 1994.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 26th day of April 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
United Technologies Corporation; Otis Elevator Company (Co.).	Tucson, AZ	04/20/94	NAFTA–00082	Electronic elevator controls.
Miami Trim, Inc. (Co.)	Miami, FL	04/18/94	NAFTA–00083	Buttons and assorted apparel related trim items.
Laidlaw Corporation of the West (Wkrs)	Stockton, CA	04/25/94	NAFTA–00084	Suit and children's clothes hangers.
Beaver Dam Products Corporation; Division of the Chrysler Corporation (UPIU).	Beaver Dam, WI	04/25/94	NAFTA–00085	Marine, industrial and service replacement engines and related parts.

[FR Doc. 94–10927 Filed 5–5–94; 8:45 am]
BILLING CODE 4510–30–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Panel on Structural Geology and Geoengineering: Update on the Status of the ESF

Pursuant to its authority under section 5051 of Public Law 100–230, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's Panel on Structural Geology & Geoengineering will hold a meeting on Monday, June 13 and Tuesday, June 14, 1994, in Las Vegas, Nevada. The meeting will be held at the Holiday Inn Crowne Plaza, 4255 South Paradise Road, Las Vegas, NV 89109; tel (702) 369–4400, fax (702) 369–3770. The meeting, which is open to the public, will run from 1 p.m. to 5 p.m. on Monday, June 13; then continue on Tuesday, June 14 at 8 a.m. The meeting on Tuesday should end around noon.

During the meeting, panel members will hear presentations from the Department of Energy (DOE) and its contractors on improving the efficiency of underground exploration and construction of the exploratory studies facility (ESF). Efforts are under way to identify potential ways to reduce costs and shorten the excavation schedule by simplifying the design of the underground facility. Additional topics that will be addressed at the meeting include how the administration's new funding proposal for the high-level waste management program (Scenario A) will affect site-suitability issues; how to use the tunnel boring machine most efficiently during excavation of the five-mile, portal-to-portal main loop; how thermal loading issues could affect repository design; and how the proposed plan for 100-year retrievability, including in Scenario A, could affect the design of the repository.

The Nuclear Waste Technical Review Board was created in the 1987 amendments act to evaluate the technical and scientific activities in the DOE's civilian radioactive waste management program, including site characterization, storage, and transport. A site at Yucca Mountain, Nevada, currently is being characterized by the DOE for its suitability as the possible location of a permanent repository for civilian spent fuel and defense high-level waste.

Transcripts of the meeting will be available on computer disk or on a library-loan basis in paper format from Victoria Reich, Board librarian, beginning July 26, 1994. For further information, contact Frank Randall, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated: May 3, 1994.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 94–10970 Filed 5–5–94; 8:45 am]
BILLING CODE 6820–AM–M

OFFICE OF PERSONNEL MANAGEMENT

AGENCY: Office of Personnel Management.

National Partnership Council; Meeting

ACTION: Notice of meeting.

SUMMARY: The Office of Personnel Management (OPM) announces the seventh meeting of the National Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

TIME AND PLACE: The Council will meet May 11, 1994, 2 p.m., in the OPM Conference Center, Room 1350, at the Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC 20415–0001. The conference center is located on the first floor.

TYPE OF MEETING: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact OPM to obtain appropriate accommodations.

POINT OF CONTACT: Douglas K. Walker, Office of Communications, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5F12, Washington, DC 20415–0001, (202) 606–1800.

SUPPLEMENTARY INFORMATION: The Council will receive reports on and discuss activities contained in its work plan for calendar year 1994, Strategy To Promote Change, which was adopted at the April 12, 1994, meeting.

PUBLIC PARTICIPATION: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Douglas K. Walker at the address shown above. Comments should be received by May 6, in order to be considered at the May 11, meeting.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 94–10935 Filed 5–5–94; 8:45 am]
BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold a meeting on May 25, 1994, at 10 a.m. at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 19th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the results and presentation of the 19th Actuarial Valuation. The text and tables which

constitute the Valuation will have been prepared in draft form for review by the Committee. It is expected that this will be the last meeting of the Committee before publication of the Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

Dated: April 29, 1994.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 94–10873 Filed 5–5–94; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33983; File No. SR–CBOE–94–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Modifications of Exchange Fees

April 29, 1994.

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 April 1, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to establish the following fees: (1) A $350 monthly fee for CBOE members who install ILX/WDN personal computer ("PC") terminals in their floor booth(s); and (2) a $150 quarterly fee for non-clearing Designated Primary Market Makers ("DPMMs") for the Exchange's work in reviewing their SEC Form X–17A–5 reports and conducting annual financial audits to ensure their compliance with the Commission's net capital rule, as amended, effective April 1, 1994.[1] In addition, the Exchange proposes to expand its customer box spread fee rebate program, which is currently limited to positions in Standard & Poor's 500 ("SPX") index options, to make the rebate available on a member's request for qualifying public customer positions in any and all European-style index options.[2]

The text of the proposed fee changes is available at the office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish two new fees and to extend the CBOE's current fee rebate program for SPX options to additional classes of European-style options. The first new fee is a $350 monthly fee to CBOE members who install ILX/WDN PC terminals in their floor booth(s). These terminals, which will replace booth-installed Quotron terminals, will use Windows-based software and will include and ILX window for display of market data as well as a CBOE WDN window for internal CBOE displays and functions.

The second new fee is a $150 quarterly fee to be paid by non-clearing DPMMs for the Exchange's work in reviewing their reports on SEC Form X–17A–5 and conducting annual financial audits of such DPMMs to ensure compliance with the Commission's net capital rule, as amended, effective April 1, 1994.[3] In the past, because non-clearing market makers were exempt from the net capital rule, the CBOE'S financial oversight of non-clearing DPMMs was less extensive, as were the CBOE'S costs therefor. Beginning on April 1, 1994, however, non-clearing DPMMs will be required to meet portions of the Commission's net capital rule, and the Exchange's oversight costs will increase accordingly. The CBOE believes that the $150 quarterly fee will recover a substantial portion of the new oversight costs which the Exchange estimates it will incur.

In addition to the two new fees described above, the CBOE proposes to expand the customer box spread fee rebate program, which is currently limited to positions in SPX options.[4] The expansion will make the rebate available on a member's request for qualifying public customer positions in any and all European-style index options. The existing rebate program, which was approved permanently in February 1993,[5] enables members to reduce certain transaction and trade match fees which they pay to the Exchange.

The terms of the fee rebate and the rebate procedures proposed for all European-style index options will be identical to the rebate terms and procedures applicable to SPX options. Under the current rebate program, as under the proposal, CBOE members may request a rebate of 50% of their transaction and trade match fees[6] assessed an options transactions that meet the following parameters: (1) The options transaction(s) are executed for a customer account; and (2) the transactions are box spreads[7] on a European-style index that total 500 or more contracts for the four sides of the spread (i.e., 125 contracts per side).

Members seeking a fee rebate must submit a rebate request together with supporting documentation to the Exchange's Accounting Department. At a minimum, the supporting documentation must include the trade date, the executing broker acronym, and the contract class, series, premium, and quality.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(4),

[1] See Securities Exchange Act Release No. 32737 (August 11, 1993), 58 FR 43555 (File No. S7–27–88).

[2] The current box spread rebate program provides a 50% rebate on transaction and trade match fees for box trades by public customers in SPX options, provided the box trade totals 500 or more contracts for the four sides of the trade. See Securities Exchange Act Release No. 31386 (February 8, 1993), 58 FR 8639 (File No. SR–CBOE–93–06) ("Fee Rebate Approval Order").

[3] *See* Securities Exchange Act Release No. 32737, *supra* note 1.

[4] *See* Fee Rebate Approval Order, *supra* note 2.

[5] *Id.*

[6] The rebate is $.22 per contract ($.20 transaction fee, plus $.02 trade match fee) on contracts with a premium greater than or equal to $1 and $.12 per contract ($.10 transaction fee, plus $.02 trade match fee) on contracts with a premium less than $1.

[7] For purposes of the rebate, a box spread is a four-sided option spread on a given European-style index that is composed of (i) a long call and a short put at one strike price and (ii) a short call and long put at a different strike price. All four sides must expire in the same month.

in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using the CBOE's facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–10888 Filed 5–5–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20261; 812–8696]

Bando McGlocklin Capital Corporation et al.; Application

April 29, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Bando McGlocklin Capital Corporation ("Bando") and Bando McGlocklin Small Business Investment Corporation (the "SBIC Subsidiary").

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) of the Act from sections 8(b), 12(d), 17(a), 18(a), 18(c), 30(a), 30(b), and 30(d) of the Act and rules 8b–16, 30a–1, 30b1–1, and 30d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to permit Bando to form two new subsidiaries and engage in certain transactions with the new subsidiaries. The order also would permit modified asset coverage requirements for Bando and one of the subsidiaries and, in addition, permit certain reports to be filed on a consolidated basis. The requested order would amend two prior orders.

FILING DATE: The application was filed on November 19, 1993 and amended on February 11, 1994. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 24, 1994, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 13555 Bishops Court, Brookfield, WI 53005.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0576, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Bando and the SBIC Subsidiary, Wisconsin corporations, are registered closed-end investment companies. In 1992 and 1993, the SEC issued orders to permit Bando and the SBIC Subsidiary to create a holding company structure with the SBIC Subsidiary being a wholly-owned subsidiary of Bando, and to permit Bando to issue a class of senior security (the "Prior Order").[1] Bando was licensed to operate as a small business investment company under the Small Business Investment Act of 1958. On March 26, 1993, Bando transferred substantially all of its assets and its small business investment company license to the SBIC Subsidiary. Presently, the SBIC Subsidiary provides secured loans to small businesses.

2. Bando proposes to form two additional subsidiary corporations. One of these will be a small business lender ("the SBL Subsidiary") participating in a government guaranteed loan program and the other will be the "Bankruptcy Remote Subsidiary." The SBL and Bankruptcy Remote Subsidiaries will be registered closed-end investment companies under the Act.

3. Subject to the approval of the Small Business Administration ("SBA"), the SBL Subsidiary will operate as a qualified lender licensed under the government guaranteed loan program authorized by section 7(a) of the Small Business Act (the "7(a) Program"). The 7(a) Program's objective is to provide funds to small business concerns, which otherwise may have limited access to credit. The SBA guarantees up to 70 to 85% of the principal amount of loans made by lenders under the 7(a) Program. The SBA has notified Bando that Bando's participation in the 7(a) Program must be effected in a

[1] Investment Company Act Release Nos. 19030 (Oct. 15, 1992) (notice), 19092 (Nov. 10, 1992) (order) (initial order permitting Bando to establish and operate the SBIC Subsidiary as a wholly-owned subsidiary), 19584 (July 21, 1993) (notice), and 19636 (Aug. 17, 1993) (order) (order amending initial order to permit Bando to issue one class of senior security which is a stock).

corporation separate from the Bando and the SBIC Subsidiary.

4. The Bankruptcy Remote Subsidiary will facilitate the "securitization" of portfolio loans of Bando, the SBIC Subsidiary, and the SBL Subsidiary. Securitization of loans held by the SBL and SBIC Subsidiaries will be effected by the sale of the loans to Bando, followed by the sale of the loans to the Bankruptcy Remote Subsidiary. The Bankruptcy Remote Subsidiary then will sell the loans to a "company" that is not taxed as a corporation under the Internal Revenue Code, in exchange for cash and securities issued by the company. The directors of the Bankruptcy Remote Subsidiary will not be identical to those of Bando, the SBIC Subsidiary, or the SLB Subsidiary. This will enable certain securities issued by a company and collateralized by the loans purchased from the Bankruptcy Remote Subsidiary to obtain an investment grade rating. A majority of the directors of the Bankruptcy Remote Subsidiary will be directors of Bando. All loans would be sold on a non-recourse basis and neither Bando nor any of its subsidiaries would guarantee payment of such loans.

Applicants' Legal Analysis

A. Section 12(d)

1. Section 12(d)(1) of the Act limits the amount of securities a registered investment company may hold of other investment companies. Section 12(e) provides an exemption to the section 12(d)(1) limitations for acquisitions of securities of certain corporations, such as those that furnish capital to industry, provided that, among other things, the aggregate cost of the securities does not exceed 5% of the total assets of the acquiring company at the time of purchase. Subsequent to the Bando's initial acquisition of the outstanding common stock of the SBL Subsidiary, Bando's additional purchases of the SLB Subsidiary's common stock may exceed 5% of Bando's total assets and, therefore, the section 12(e) exemption will no longer be available.

2. In addition, because Bando will hold more than 3% of the outstanding voting stock of the SBL Subsidiary, Bando's loans to the SBL Subsidiary could violate section 12(d)(1) if such loans were considered acquisitions of the SBL Subsidiary's debt securities. Bando's organization of the Bankruptcy Remote Subsidiary and subsequent purchases of the subsidiary's common stock also will violate section 12(d)(1) absent an exemption, and section 12(e) will not be available because the Bankruptcy Remote Subsidiary will not engage in any of the businesses specified in section 12(e). Accordingly, Bando requests an exemption from section 12(d)(1) to permit Bando to (a) make further acquisitions of the common stock of the SBL Subsidiary, (b) acquire notes and other indebtedness of the SBL Subsidiary, and (c) acquire the common stock of the Bankruptcy Remote Subsidiary.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between registered investment companies and any affiliated person of that company. Bando, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary will be affiliated persons. Since the SBL Subsidiary will be fully owned by Bando, Bando's initial acquisition of the outstanding common stock of the SBL Subsidiary will be exempt under rule 17a–3 from section 17(a).[2] In addition, applicants assert that investments in the SBL Subsidiary in the form of stock purchases, capital contributions, or loans do not violate section 17(a) because the seller is the issuer and is controlled by Bando. Purchases and sale of portfolio securities between Bando and the SBL Subsidiary, however, appear to be violations of section 17(a).[3] Accordingly, applicants request an exemption from section 17(a) to the extent necessary to permit purchases and sales of portfolio securities between Bando and the SBL Subsidiary.

2. Applicants assert that the organization and operation of the Bankruptcy Remote Subsidiary does not raise any issues under section 17(a) because it will be able to rely on the rule 17a–3 exemption.

C. Section 18

1. Section 18(a) of the Act prohibits a registered closed-end investment company from issuing any class of senior security unless the company complies with the asset coverage requirements set forth in the section. "Asset coverage" is defined in section 18(h) to mean the ratio which the value of the total assets of an issuer, less all liabilities not represented by senior securities, bears to the aggregate amount of senior securities of such issuer. Under section 18(a), senior securities of closed-end investment companies representing indebtedness must have an asset coverage of 300% immediately after their issuance and senior securities of such companies representing stock must have an asset coverage of 200%. Section 18(c) prohibits a registered closed-end investment company from issuing more than one class of senior securities representing indebtedness.

2. Bando, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary are subject to the asset coverage requirements of section 18(a) on an individual basis, and Bando on a consolidated basis because Bando may be an indirect issuer of senior securities with respect to the SBL and Bankruptcy Remote Subsidiaries' indebtedness. Accordingly, Bando would be required to treat as its own any liabilities of the SBL and Bankruptcy Remote Subsidiaries.

3. Absent exemptive relief, the asset coverage limitations of section 18(a) would prevent the SBL Subsidiary from using borrowings from Bando to fund 7(a) Program loans. Similarly, without an exemption, section 18(c) would preclude the SBL Subsidiary from issuing more than one class of securities to finance such borrowings. In addition, if deemed to be an indirect issuer of the SBL Subsidiary's indebtedness, sections 18 (a) and (c) would impose the same limitations on Bando with respect to the SBL Subsidiary's borrowings on a consolidated basis. Accordingly, applicants request an exemption from 18(a) to the extent necessary to treat the SBL Subsidiary's borrowings from Bando as "liabilities and indebtedness not represented by senior securities" within the meaning of section 18(h) in applying the asset coverage requirements of section 18(a). Applicants also request an exemption from section 18(c) to permit Bando and the SBL Subsidiary, on an individual basis, to have more than one class of senior security representing indebtedness, subject to condition 5 below. The organization and operation of the Bankruptcy Remote Subsidiary does not raise any issues under section 18 because it will not issue senior securities.

D. Sections 8 and 30

In the absence of an exemption, each of Bando, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary would be required to file annual amendments

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[2] Rule 17a–3 provides in part that transactions solely between a registered investment company and one or more of its "fully owned subsidiaries" are exempt from section 17(a). Rule 17a–3 defines a "fully owned subsidiary" as a subsidiary that, among other things, is not indebted to any person other than its parent, the parent's other fully owned subsidiaries, and/or banks or insurance companies in any amount that is material in relation to the particular subsidiary.

[3] After the SBL Subsidiary begins operations, it will no longer be considered a "fully owned subsidiary" under rule 17a–3 to the extent that the SBL Subsidiary becomes indebted to parties other than Bando, the SBIC Subsidiary, the Bankruptcy Remote Subsidiary, banks, or insurance companies in any "material amount."

to its registration statement and transmit to its shareholders annual and/or semi-annual reports on form N–SAR pursuant to sections 8(b), 30(a), 30(b), and 30(d) and rules 8b–16, 30a–1, 30b1–1, and 30d–1. Applicants request an exemption to permit: (a) Bando to file on behalf of itself, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary amendments to its registration statement containing information with respect to Bando, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary on a consolidated basis only; (b) Bando to file on behalf of itself and the SBL Subsidiary semi-annual reports on form N–SAR containing information with respect to Bando, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary on a consolidated basis only; and (c) Bando to transmit to its shareholders semi-annually reports containing the financial information for Bando, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary on a consolidated basis only.

E. Modification of Condition 6 of Prior Order

1. Condition 6 of the Prior Order provides that if 10% or more of Bando's total assets on a consolidated basis are invested in assets other than securities issued by the SBIC Subsidiary, then, in addition to the consolidated financial statements of Bando and the SBIC Subsidiary, there shall be included in such reports separate financial statements of the SBIC Subsidiary. Absent exemptive relief, applicants assume that if 10% or more of Bando's total assets on a consolidated basis are invested in assets other than the SBIC, SBL, and Bankruptcy Remote Subsidiaries, separate financial statements would be required.

2. In the future, Bando may make loans directly and may purchase loans from the SBIC or SBL Subsidiaries, and may therefore have more than 10% of its assets on a consolidated basis invested in assets other than the SBIC, SBL, and Bankruptcy Remote Subsidiaries. Accordingly, applicants request that condition 6 of the Prior Order be modified to require separate financial statements of the SBIC, SBL, and Bankruptcy Remote Subsidiaries if 10% or more of Bando's total assets on a consolidated basis are invested in assets other than securities issued by the SBIC, SBL, and Bankruptcy Remote Subsidiaries and securities similar to securities in which the subsidiaries invest.

F. Standards for Exemption Under Sections 6(c) and 17(b)

1. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act. The relationship of Bando's shareholders to the activities to be carried out by the SBL and Bankruptcy Remote Subsidiaries will be no different than if such activities were carried out by Bando because (a) the SBL and Bankruptcy Remote Subsidiaries will be wholly-owned subsidiaries of Bando; and (b) Bando has agreed that it will exercise its rights as the shareholder of the SBL and Bankruptcy Remote Subsidiaries on matters required by the Act to be approved by shareholders only as directed by Bando's shareholders. Accordingly, applicants believe that the requested exemptions meet the section 6(c) standards.

2. Section 17(b) of the Act permits the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Applicants believe that the requested relief from section 17(a) meets these standards.

Applicants' Conditions

Applicants state that as a condition to the granting of the exemptive relief requested, each of Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary will comply with the following conditions:

1. Bando will at all times own and hold beneficially and of record all of the outstanding voting capital stock of the SBIC, SBL, and Bankruptcy Remote Subsidiaries.

2. The SBIC and SBL Subsidiaries will have the same fundamental policies of Bando, as set forth in Bando's registration statement; the SBIC and SBL Subsidiaries will not engage in any of the activities described in section 13(a) of the Act, except in each case as authorized by the vote of a majority of the outstanding voting securities of Bando. The Bankruptcy Remote Subsidiary will not engage in any of the activities described in section 13(a) of the Act, except in each case as authorized by the vote of a majority of the outstanding voting securities of Bando.

3. No person shall serve or act as investment adviser to the SBIC, SBL, or Bankruptcy Remote Subsidiaries under circumstances subject to section 15 of the Act, unless the directors and shareholders of Bando shall have taken the action with respect thereto also required to be taken by the directors and shareholders of the SBIC, SBL, or Bankruptcy Remote Subsidiaries, as the case may be.

4. No person shall serve as a director of the SBIC, SBL, or Bankruptcy Remote Subsidiaries who shall not have been elected as a director of Bando at its most recent annual meeting, as contemplated by section 16(a) of the Act and subject to the provision thereof relating to the filling of vacancies, provided that the Bankruptcy Remote Subsidiary may have two directors who are not directors of Bando as long as a majority of its board of directors consists of directors who are also directors of Bando. Notwithstanding the foregoing, (a) the board of directors of the SBIC and SBL Subsidiaries will be elected by Bando as the sole shareholder of both corporations, and such board will be composed of the same persons that serve as directors of Bando and (b) the board of directors of the Bankruptcy Remote Subsidiary will be elected by Bando as the sole shareholder of the Bankruptcy Remote Subsidiary and such board will be composed of the same persons that serve as directors of Bando except to the extent noted above.

5. Bando will not itself issue or sell any senior security representing indebtedness if immediately thereafter Bando will have outstanding more than one class of senior security representing indebtedness; and Bando will not issue or sell any senior security which is a stock if immediately thereafter Bando shall have outstanding more than one class of senior security which is a stock, as provided under section 18(c) of the Act. Bando shall not guarantee any borrowings of the SBIC or SBL Subsidiaries, nor shall Bando enter into any express or implied agreement that is the functional equivalent of such a guarantee, including any agreement that will ensure that the SBIC or SBL Subsidiaries has a tangible net worth of a specified amount. Bando will not cause or permit the SBIC or SBL Subsidiaries to issue or sell any senior security of which the SBIC or SBL Subsidiaries is the issuer except as hereafter set forth: the SBIC and SBL Subsidiaries may issue and sell to banks, insurance companies, and other financial institutions their secured or

unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, and the SBIC Subsidiary may issue debt securities held or guaranteed by SBA, provided the following conditions are met: (a) Such notes or evidences of indebtedness are not intended to be publicly distributed; and (b) such notes or evidences of indebtedness are not convertible into, exchangeable for or accompanied by any options to acquire, any equity security. Immediately after the issuance or sale of any class of senior security by Bando or the issuance or sale of any such notes or evidences by the SBIC or SBL Subsidiaries, Bando, the SBIC Subsidiary, and the SBL Subsidiary on a consolidated basis, and Bando and the SBL Subsidiary individually, shall have the asset coverage required by section 18(a), except that, in determining whether Bando, the SBIC Subsidiary, and the SBL Subsidiary, on a consolidated basis, and the SBL Subsidiary on an individual basis, have the asset coverage required by section 18(a), any borrowings by the SBIC Subsidiary or any borrowings by the SBIC Subsidiary or any borrowings by the SBL Subsidiary from Bando, for purposes of the definition of "asset coverage" in section 18(h), shall be treated as indebtedness not represented by senior securities. The Bankruptcy Remote Subsidiary will not issue senior securities.

6. Bando will file with the SEC pursuant to rule 8b–16 amendments to its registration statement pursuant to section 8(b) of the Act on behalf of itself, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary containing information with respect to, and financial statements of, Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary on a consolidated basis only, such amendments to be in lieu of and in satisfaction of the separate filing obligations of Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary pursuant to rule 8b–16. Bando will file with the SEC pursuant to sections 30(a) and 30(b) of the Act and rules 30a–1 and 30b1–1 thereunder semi-annual reports on form N–SAR, or appropriate successor form, on behalf of itself, the SBIC Subsidiary, and the SBL Subsidiary containing information with respect to Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary on a consolidated basis only, such consolidated semi-annual reports to be lieu of and in satisfaction of the separate filing obligations of Bando, the SBIC Subsidiary, and the SBL Subsidiary pursuant to sections 30(a) and 30(b) and rules 30a–1 and 30b1–1. Bando will in response to the appropriate item of form N–SAR or appropriate successor form indicate that the report is being filed on behalf of the SBIC, SBL, and Bankruptcy Remote Subsidiaries and include the "811" number of each of the SBIC, SBL, and Bankruptcy Remote Subsidiaries. Bando will transmit to its shareholders semi-annually pursuant to section 30(d) of the Act and rule 30d–1 thereunder reports containing the financial information and statements prescribed and required by such section and rule for Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary on a consolidated basis only, which reports shall be in lieu of and in satisfaction of the separate reporting obligations of Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary pursuant to section 30(d) and rule 30d–1, only so long as the amount of Bando's total assets on a consolidated basis invested in assets other than securities of the SBIC, SBL, and Bankruptcy Remote Subsidiaries, or securities similar to those in which such subsidiaries invest, does not exceed 10%. Notwithstanding anything in this condition, Bando shall not be relieved of any of its reporting obligations including, but not limited to, any consolidating statement setting forth the individual statements of the SBIC, SBL, or Bankruptcy Remote Subsidiaries required by rule 6–03(c) of regulation S–X. The selection of any independent public accountant who signs a consolidated financial statement filed by Bando, the SBIC Subsidiary, the SBL Subsidiary, and the Bankruptcy Remote Subsidiary with the SEC shall be ratified in accordance with section 32(a)(2) of the Act by a majority of the outstanding voting securities (as defined in section 2(a)(42) of the Act) of Bando.

7. Bando will acquire securities of the SBIC Subsidiary representing indebtedness only if, in each case, the prior approval of SBA has been obtained. Bando and the SBIC Subsidiary will purchase and sell portfolio securities between themselves only if, in each case, the prior approval of SBA has been obtained.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–10891 Filed 5–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20262, 812–8898]

The Haven Fund, et al.; Notice of Application

April 29, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Haven Fund (the "Fund"), HCM Partners, L.P. (the "Partnership"), and Haven Capital Management, Inc. (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the exchange of shares of the Fund for portfolio securities of the Partnership. Thereafter, the Partnership will dissolve and distribute the shares it received in the exchange pro rata to its partners.

FILING DATE: The application was filed on March 18, 1994. By supplemental letter dated April 29, 1994, counsel to applicants agreed to file an amendment during the notice period to make certain changes to its application. This notice reflects the changes to be made to the application by that 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 May 24, 1994, 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, c/o Haven Capital Management, Inc., 655 Third Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership was organized in 1984 as a limited partnership under New York state Law. It has not been registered under the Act in reliance upon section 3(c)(1) of the Act, and the Partnership interests have not been registered under the Securities Act of 1933 in reliance upon section 4(2) thereof. The general partners of the Partnership, Messrs. Stephen Ely, Colin C. Ferenbach, and Denis M. Turko (the "General Partners"), have exclusive control over the management and business of the Partnership. The General Partners have maintained an investment in the Partnership not less that 1% of the net assets of the Partnership, and are allocated net income, gains, and losses of the Partnership in proportion to their respective investments.

2. The Fund is the initial series of The Haven Capital Management Trust, a business trust formed under the laws of Delaware on March 17, 1994. The Fund, an open-end management investment company, filed a notification of registration under the Act on Form N–8A and a registration statement under the Act and the Securities Act on Form N–1A on March 18, 1994. The registration statement has not yet been declared effective, and no offering of shares has commenced.

3. The Adviser is the investment adviser to the Partnership and will be the investment adviser to the Fund. PFPC, Inc. and Provident Distributors, Inc., which are not affiliated with any of the applicants, will act as the Fund's administrator and principal underwriter, respectively. The Fund does not currently intend to enlist the assistance of other broker-dealers to market shares and there is no intention to advertise the Fund in newspapers or other media. Neither the Adviser nor Provident intends to solicit widespread public interest in the Fund.

4. Applicants propose that, prior to offering the shares to the public, the Fund will exchange shares for the assets of the Partnership, less funds required to pay the liabilities of the Partnership. Thereafter, the Partnership will dissolve and distribute the shares it received to its partners *pro rata*, including the General Partners. Partners of the Partnership will constitute all of the holders of shares, except for shares representing seed capital contributed to the Fund by the Adviser pursuant to section 14(a) of the Act. The Fund was designed as a successor investment vehicle to the Partnership, with investment objectives and policies substantially the same as those of the Partnership. The same persons who selected the investments for the Partnership will select them for the Fund.

5. The Fund intends to adopt a plan of distribution pursuant to rule 12b–1 under the Act. Under the rule 12b–1 plan, the Fund may spend no more than 0.25% of its average daily net assets for sales activities including compensation paid to Provident and the printing and mailing of prospectuses and sales literature. The Fund will comply with rules regarding distribution expenses adopted by the National Association of Securities Dealers.

6. The proposed exchange will be effected pursuant to an agreement and plan of exchange (the "Plan") to be approved by the limited partners of the Partnership. Under the Plan, the portfolio securities of the Partnership will be acquired at their independent "current market price," as defined in rule 17a–7 under the Act. The Fund will not acquire securities that, in the opinion of the Adviser, are overvalued or would result in a violation of the Fund's investment objectives, policies, or restrictions. It is not expected that the Partnership will hold any such securities. Any remaining securities will be liquidated by the partnership for cash and these proceeds distributed *pro rata* to the partners of the Partnership.

7. The General Partners of the Partnership will consider the desirability of the exchange from the point of view of the Partnership and must conclude that (a) the exchange is in the best interests of the Partnership and its partners and (b) upon the exchange, the interests of the partners of the Partnership will not be diluted as a result of the exchange.

8. The Fund's board of trustees will consider the desirability of the exchange from the point of view of the Fund and a majority of the trustees, including a majority of the non-interested members, must conclude that: (a) The exchange is desirable as a business matter from the point of view of the Fund; (b) the exchange is in the best interest of the Fund; (c) upon the exchange, the interests of existing shareholders of the Fund will not be diluted as a result of the exchange; and (d) the terms of the exchange as reflected in the Plan have been designed to meet the criteria contained in section 17(b) of the Act. The trustees will consider each aspect of the exchange, including: (i) The method of valuing the portfolio securities to be acquired from the Partnership, (ii) the value of the shares to be delivered to the Partnership, (iii) the procedure for selecting among the portfolio securities of the Partnership, (iv) the possibility of incurring excessive brokerage costs, (v) the allocation of the costs of the exchange, (vi) the possibility of adverse tax consequences to future shareholders of the Fund, (vii) the benefits from the exchange accruing to the Adviser, and (viii) the benefits from the exchange accruing to the General Partners.

9. The exchange will not be effected unless: (a) The registration statements of the Fund have been declared effective, (b) the limited partners of the Partnership have approved the Plan and an amendment to the partnership agreement authorizing the General Partners to take such actions as they deem necessary or appropriate to effect the exchange, (c) the requested order has been granted, and (d) the limited partners have received an opinion of counsel that: (i) The distribution of shares from the Partnership to its limited partners, which will be in liquidation of the Partnership, will not cause taxable gain or loss to be recognized by the limited partners, (ii) the basis to the limited partners for the shares will be equal to the adjusted basis of the limited partners' interests in the Partnership, and (iii) the limited partners' holding periods with respect to the shares will include their holding periods for their Partnership interests.

10. The Partnership, the Fund, and the Adviser will each pay their respective costs in connection with the forming of the Fund and completing the exchange. No brokerage commission, fee, or other remuneration will be paid in connection with the exchange.

Applicants' Legal Conclusions

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company from selling to or purchasing from such investment company any security. The Fund and the Partnership may be affiliated persons of each other because they are under the common control of the Adviser and the General Partners. Thus, the proposed exchange may be prohibited by section 17(a). Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the registered investment company, and the transaction is consistent with the general purposes of the Act.

2. Applicants believe that the proposed transaction satisfies the criteria of section 17(b). They contend

that because the Fund and the Partnership have similar investment objectives and policies, the Fund will obtain portfolio securities that initially will be substantially identical to those held by the Partnership. The Fund will acquire the Partnership securities at their independent "current market price." Applicants believe that this price will be as advantageous to the Fund as open-market purchases. In addition, by acquiring suitable securities from the Partnership, the Fund will avoid incurring brokerage and other transactions costs. Applicants believe that the exchange can be viewed as a change in the form in which the assets are held, rather than as a disposition giving rise to section 17(a) concerns.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–10889 Filed 5–5–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20265; 812–8710]

Kemper Technology Fund, Inc., et al.; Notice of Application

May 2, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Kemper Technology Fund, Kemper Total Return Fund, Kemper Growth Fund, Kemper Small Capitalization Equity Fund, Kemper Income and Capital Preservation Fund, Kemper Municipal Bond Fund, Kemper Diversified Income Fund, Kemper High Yield Fund, Kemper U.S. Government Securities Fund, Kemper International Fund, Kemper State Tax-Free Income Series, Kemper Investment Portfolios, Kemper Adjustable Rate U.S. Government Fund, Kemper Blue Chip Fund, Kemper Global Income Fund, Kemper Environmental Services Fund, Kemper Short-Term Global Income Fund, Sterling Funds, and any existing or future open-end management investment companies or series thereof for which Kemper Financial Services, Inc. ("KFS") or any person directly or indirectly controlling, controlled by or under common control with KFS serves or may in the future serve as investment adviser or principal underwriter (collectively, the "Funds"), and KFS.[1]

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) and from rule 22c–1.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds to issue multiple classes of shares representing interests in the same portfolio of securities and to permit the Funds to assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") on certain redemptions of certain shares.[2]

FILING DATE: The application was filed on December 1, 1993 and amended on February 28, 1994. By letters dated April 20, 1994 and April 28, 1994, applicants' counsel stated that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on May 26, 1994 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 120 South LaSalle Street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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. Each Fund is an open-end management investment company registered under the Act. KFS serves as the investment adviser and principal underwriter for each Fund. Each Fund has a non-rule 12b–1 administrative services agreement ("Administrative Plan") with KFS providing for a service fee[3] at an annual rate of up to .25% of average daily net assets.

2. Applicants propose to establish a Multiple Distribution System (the "Multiple Distribution System"). Under the Multiple Distribution System, each Fund would have the opportunity to offer investors the option of purchasing shares subject to: (i) A front-end sales load that may vary among Funds and a service fee ("Class A shares"), (ii) without a front-end sales load, but subject to a CDSC, a rule 12b–1 distribution fee and a service fee (the "Deferred Option" or "Class B shares"), (iii) without a front-end sales load or CDSC but subject to a rule 12b–1 plan distribution fee and to a service fee (the "Level Load Option" or "Class C shares"), and (iv) without a front-end load, CDSC, distribution fee or service fee ("Class I shares").[4]

3. The Funds may create one or more additional classes of shares in the future, the terms of which will differ from the Class A, B, C, and I shares in the following respects: Any such class: (a) May bear different distribution fees and any other costs relating to implementing or amending the rule 12b–1 plan for such class; (b) may bear different service fees; (c) may bear different shareholder servicing fees;[5] (d) may bear different "Class Expenses," that may include any or all of the

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[1] No existing Funds other than those named as applicants currently intend to rely upon the requested exemptive order.

[2] Certain applicants have received exemptive orders with respect to (i) issuance of multiple classes of shares (Kemper Investment Portfolios, Investment Company Act Release Nos. 18385 (Oct. 31, 1991) (notice) and 18422 (Nov. 27, 1991) (order)) and (ii) imposition and waiver of a CDSC upon the redemption of certain shares (Investment Portfolios, Inc., Investment Company Act Release Nos. 13676 (Dec. 16, 1983) (notice) and 13720 (Jan. 13, 1984) (order) and Kemper Blue Chip Fund, Investment Company Act Release Nos. 18801 (June 19, 1992) (notice) and 18849 (July 15, 1992) (order) *as amended and restated in* Kemper Blue Chip Fund, Investment Company Act Release Nos. 20036 (Jan. 26, 1994) (notice) and 20089 (Feb. 23, 1994) (order)) (collectively, the "Prior Orders"). The order requested hereby, if granted, would supersede the Prior Orders.

[3] As used herein, the term "service fee" has the meaning given to that term in Article III, Section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD") and the term "distribution fee" means an "asset-based sales charge" as defined in said NASD rule.

[4] No Fund will charge a service fee under a rule 12b–1 plan.

[5] As used herein, the term "shareholder servicing fees" means fees and out-of-pocket expenses paid by the Funds to their shareholder servicing agent for transfer agency, account maintenance or dividend disbursing functions or for administering dividend reinvestment or systematic investment plans. "Shareholder servicing fees" does not refer to "service fees" as described in Article III, section 26 of the Rules of Fair Practice of the NASD.

following expenses: (i) 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; (ii) Commission registration fees incurred by a specific class; (iii) litigation or other legal expenses relating to a specific class of shares; (iv) Trustee fees or expenses incurred as a result of issues relating to a specific class; and (v) accounting expenses relating to a specific class; (e) may bear a different name or designation; (f) will have exclusive voting rights as to any rule 12b–1 plan adopted exclusively with respect to such class except as provided in condition 16 below; (g) may have different conversion features; (h) may have different exchange privileges; (i) may be sold under different sales arrangements, including selling only to a particular type of investor; and (j) may bear any other incremental expenses subsequently identified that should be properly allocated to such class and that shall be approved by the Commission.

4. Any distribution arrangement of a Fund, including distribution fees, service fees, and front-end and deferred sales loads, will comply with Article III, section 26, of the Rules of Fair Practice of the NASD.

5. After a shareholder's Class B shares remain outstanding for a period of time, they automatically will convert to Class A shares of the same Fund at the relative net asset values of the two classes and will thereafter not be subject to a rule 12b–1 plan. Shares purchased through the reinvestment of distributions paid upon Class B shares will be treated as Class B shares and will be converted to Class A shares on a *pro rata* basis with the Class B shares. The Level Load Option differs from the Deferred Option in that the Class C shares would not automatically convert to Class A shares after a specified period of time as would the Class B shares.

6. Any other class of Non-Institutional Shares (as defined below) may provide that shares in that class (the "Purchase Class") will, after a period of time, automatically convert into another class of shares (the "Target Class") on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge provided that, after conversion, the converted shares would 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/or service fee to which the Purchase Class shares were subject prior to the conversion.

7. Any conversion of shares of one class to shares of another class is subject to the continuing availability of a ruling of the Internal Revenue Service or an opinion of counsel to the effect that the conversion of shares does not constitute a taxable event under federal income tax law. Any such conversion may be suspended if such a ruling or opinion is no longer available.

8. Class I shares would be offered for purchase only by the following investors (the "Institutional Investors"): (a) Tax-exempt retirement plans of KFS and its affiliates, and (b) the following investment advisory clients of KFS and its investment advisory affiliates that invest at least $1 million in a Fund: (1) benefit plans unaffiliated with KFS, such as qualified retirement plans (other than individual retirement accounts and self-directed retirement plans), (2) banks and insurance companies unaffiliated with KFS purchasing for their own accounts, and (3) endowment funds of non-profit organizations unaffiliated with KFS.

9. Future classes may be offered to meet the specific investment needs of non-institutional investors (herein, such future classes together with Class A, B, and C shares are "Non-Institutional Shares"). Other future classes, in addition to Class I shares, may be offered to meet the specific investment needs of a particular category of Institutional Investor (together with Class I shares, "Institutional Shares"). Still other future classes may be offered to various market segments or through various types of intermediaries.

10. Only Institutional Investors will be eligible to invest in Institutional 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. 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. Accordingly, there will be no overlap between the investors eligible to invest in Institutional Shares and investors eligible to invest in Non-Institutional Shares of a Fund or series thereof.

11. Under the Multiple Distribution 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. 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. Applicants also propose to assess and, under certain circumstances, waive or reduce a CDSC on certain redemptions of their shares. The CDSC will not be imposed upon a redemption of shares that were purchased more than a specified period of time prior to the redemption (the "CDSC Period") or upon shares derived from reinvestment of distributions. Furthermore, no CDSC will be imposed upon an amount that represents share appreciation.

13. The Funds request the ability to waive the CDSC as described below: (a) On redemptions following the total disability (as evidenced by a determination by the federal Social Security Administration) of the shareholder (including a registered joint owner) occurring after the purchase of the shares being redeemed, (b) in the event of the death of the shareholder (including a registered joint owner), (c) on redemptions pursuant to the Funds' right to liquidate small accounts or to charge an annual small account fee, (d) on redemptions of shares acquired as a result of the investment of distributions from shares of a class of one Fund into shares of the same class of another Fund, (e) for redemptions made pursuant to a systematic withdrawal plan, and (f) in connection with the following redemptions of shares held by employer sponsored employee benefit plans maintained on the subaccount record keeping system made available by KFS: (i) Redemptions to satisfy participant loan advances (loan repayments would constitute new purchases for purposes of the contingent deferred sales charge and the conversion privilege), (ii) redemptions in connection with retirement distributions (limited at any one time to 10% of the total value of plan assets invested in the Fund), (iii) redemptions in connection with distributions qualifying under the hardship provisions of Internal Revenue Code section 403(b)(7) or in Treasury Regulation 401(k)–1(d)(2), as amended, and (iv) redemptions representing returns of excess contributions to such plans.

14. The Funds will provide a credit (i.e., a reimbursement) for any CDSC paid by a redeeming shareholder in connection with a redemption of shares of a class followed by a reinvestment in

any shares of the same class of the same Fund or, as permitted by KFS, the same class of another Fund, effected within such number of days of the redemption as may be specified in a Fund's prospectus. The CDSC credit will be paid by KFS. Upon redemption thereafter, when calculating the amount of the CDSC the shares will be deemed to have been held for the period from purchase through reinvestment, except for the period between redemption and reinvestment, until such shares are finally redeemed.

Applicants' Legal Analysis

1. The creation of multiple classes of shares may result in shares of a class having priority over another class as to payment of dividends and having unequal voting rights, because under the proposed arrangement: (1) Shareholders of different classes (i) would pay different fees because of the rule 12b–1 plan (and related costs) and (ii) may pay different service fees, shareholder servicing fees and Class Expenses and (2) each class would be entitled to exclusive voting rights as to matters concerning its rule 12b–1 plan.

2. The abuses that section 18 of the Act is intended to address as set forth in section 1(b) of the Act are that the interest of investors are adversely affected when investment companies by excessive borrowing and the issuance of excessive amounts of senior securities increase unduly the speculative character of their junior securities or operate without adequate assets or reserves. The Multiple Distribution System does not involve borrowings and does not affect the Funds' existing assets or reserves. In addition, the proposed arrangement will not increase the speculative character of the shares of the Funds, since all such shares will participate *pro rata* in all the Fund's appreciation, income and expenses (with the exception of the different distribution fees payable by each class of shares and any other costs relating to implementing the rule 12b–1 plan for such class or an amendment to such plan including obtaining shareholder approval of the rule 12b–1 plan for such class or any amendment to such plan), any different service fees, shareholder servicing fees, and Class Expenses.

3. Applicants believe that the imposition of the CDSC is fair and in the best interests of their shareholders. The proposed CDSC provides shareholders the advantage of having more investment dollars working for them from the time of their purchase than if a sales load were imposed at the time of purchase. Furthermore, the CDSC described above is fair to shareholders because it applies only to amounts representing purchase payments and does not apply to amounts representing share appreciation, or to amounts representing reinvestment of distributions.

Applicants Conditions

Applicants agree that the 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, and be identical in all respects to each other class, except as set forth below. The only differences among the various classes of shares of the same Fund will relate solely to: (a) Different distribution fee payments associated with any rule 12b–1 plan for a particular class of shares and any other costs relating to implementing or amending such Plan (including obtaining shareholder approval of such Plan or any amendment thereto) which will be borne solely by shareholders of such classes, (b) different service fees, (c) different shareholder servicing fees, (d) different Class Expenses, which will be limited to the following expenses determined by the Trustees to be attributable to a specific class of shares: (i) 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; (ii) Commission registration fees incurred by a specific class; (iii) litigation or other legal expenses relating to a specific class; (iv) Trustee fees or expenses incurred as a result of issues relating to a specific class; and (v) accounting expenses relating to a specific class; (e) the voting rights related to any 12b–1 Plan affecting a specific class of shares, except as provided in condition 16 below; (f) conversion features; (g) exchange privileges; and (h) class names or 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 by an amended order.

2. The Trustees of each Fund, including a majority of the Independent Trustees, will approve the Multiple Distribution System for a particular Fund prior to its implementation by that Fund. The minutes of the meetings of the Trustees of each Fund regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multiple Distribution System will reflect the reasons for the Trustees' determination that the proposed Multiple distribution System is in the best interests of both the Fund and its shareholders.

3. The initial determination of any 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; and such compliance standards will require that all investors eligible to purchase Institutional Shares will be sold only Institutional Shares rather than any other class of shares offered by a Fund, and that all investors eligible to purchase Non-Institutional Shares will be sold only Non-Institutional Shares.

5. The Administrative 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 various classes of shares. The Trustees, including a majority of the Independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. KFS will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, KFS at its own cost will remedy such conflict up to and including establishing a new registered management investment company.

7. The Trustees of the Funds will receive quarterly and annual statements concerning distribution and servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements only expenditures properly attributable to the sale or servicing of a

particular class of shares will be used to support any distribution or service 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 support any distribution or servicing fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review of the Independent Trustees in the exercise of their fiduciary duties.

8. Dividends paid by a Fund as 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 in the same amount, except that any distribution fees, service fees, shareholder servicing fees and Class Expenses allocated to a class will be borne exclusively by that class.

9. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes and the proper allocation of expenses between or among the various classes has been reviewed by an expert (the "Expert") who has rendered to the applicants a report, which has been provided to the staff of the Commission, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert concerning such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the Commission staff upon the written request to the Fund 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 Regional Administrators. The initial report of the Expert is a "Report on Policies and Procedures in Existence," 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 they may be adopted by the AICPA from time to time.

10. 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 various classes of shares and the proper allocation of expenses between or among such classes of shares; and this representation has been concurred with by the Expert in the initial report referred to in condition (9) 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 (9) above. Applicants agree to take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur with the ongoing reports.

11. The prospectuses of each Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation as to one class of Fund shares in relation to another.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Funds concerning the Multiple Distribution System will be set forth in guidelines that will be furnished to the Trustees as part of the materials setting forth the duties and responsibilities of the Trustees.

13. Each Fund will disclose the respective expenses, performance data, distribution arrangements; services, fees, sales loads, deferred sales loads, conversion features, 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 shareholder reports on each Fund will disclose the respective expenses and performance data applicable to each class of shares. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis for all classes of shares of that Fund. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will disclose the 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 Funds' net asset values and public offering prices will present separately each class of shares except Institutional Shares.

14. Applicants acknowledge that the grant of the exemptive 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 their rule 12b–1 distribution plans or Administrative Plan in reliance upon the exemptive order.

15. Purchase Class shares will convert into Target Class 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 charge and/or service fee (as those terms are defined in Article III, section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

16. If a Fund implements any amendment to its rule 12b–1 Plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 service plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, existing Purchase Class shares will stop converting into Target Class shares unless the Purchase Class shareholders, voting separately as a class, approve the proposal. The Trustees shall take such actions as are 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 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 the existing Purchase Class shares in all material respects except that New Purchase Class will convert into New Target Class. The New Target Class or the 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 above, any additional cost associated with the creation, exchange, or conversion of the New Target Class or the New Purchase Class shall be borne solely by the investment adviser and principal underwriter. 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.

17. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (November 2, 1988) as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–10981 Filed 5–5–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 20263; 812–8920]

National Equity Trust; Notice of Application

May 2, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: National Equity Trust.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3).

SUMMARY OF APPLICATION: Applicant seeks a conditional order on behalf of its series (the "Series") to permit each Series to invest up to twenty percent of its total assets in securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATE: The application was filed on April 1, 1994. By supplemental letter dated April 29, 1994, counsel, on behalf of applicant, agreed to file an amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such 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 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 May 27, 1994, 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 who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Prudential Securities Incorporated, 32 Old Slip, New York, New York 10292 (Attn: Richard R. Hoffmann).

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 942–0583, or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Each Series will be a series of applicant, a unit investment trust registered under the Act. Prudential Securities Incorporated ("Prudential") is applicant's depositor. Prudential currently intends to offer a new Series four times a year at about the beginning of each calendar quarter.

2. Each Series' investment objective is to provide total return through a combination of potential capital appreciation and current dividend income. Each Series will invest approximately 20%, but in no event more than 20.5%,[1] of the value of such Series' total assets in each of the five lowest dollar price per share stocks of the ten common stocks in the Dow Jones Industrial Average ("DJIA") having the highest dividend yields. Dividend yields will be calculated by annualizing the last quarterly or semi-annual ordinary dividend distributed on that security and dividing the result by the market value of the security at the close of the New York Stock Exchange either on or shortly before such Series' initial date of deposit.

3. The DJIA comprises 30 widely-held common stocks listed on the New York Stock Exchange which are chosen by the editors of *The Wall Street Journal.* The DJIA is the property of Dow Jones & Company, Inc., which is not affiliated with Prudential or any Series, and does not participate in any way in the creation of any Series or the selection of its stocks.

4. The securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of Prudential. Prudential will have no discretion as to which securities are purchased. Securities deposited in a Series may include securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

5. During the 90-day period following the initial date of deposit, Prudential may deposit additional securities, maintaining to the extent practicable the original proportionate relationship among the number of shares of each stock in the portfolio. Subsequent deposits made after the 90-day period following the initial date of deposit must replicate exactly (subject to certain limited exceptions) the proportionate relationship among the face amounts of the securities comprising the portfolio at the end of the initial 90-day period, whether or not a stock continues to be among the five highest dividend yielding stocks.

6. A Series' portfolio will not be actively managed. Sales of portfolio securities will be made in connection with redemptions and at the termination of the trust. Prudential will have no discretion as to when securities will be sold except that it is authorized to direct the trustee to sell securities upon failure

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[1] Prudential will attempt to purchase securities so that each of the five common stocks in a Series portfolio represents twenty percent of the value of a Series' total assets on the initial date of deposit. Prudential may purchase the securities for a Series in odd lots in order to achieve this goal. However, it is more efficient if securities are purchased in 100 share lots and 50 share lots. As a result, a Series may purchase securities of a securities related issuer that represent over twenty percent, but in no event more than 20.5 percent, of a Series' assets on the initial date of deposit to the extent necessary to enable Prudential to meet its purchase requirements and to obtain the best price for the securities.

of the issuer of a security held by a Series to declare or pay anticipated cash dividends, institution of certain materially adverse legal proceedings against the issuer, default by the issuer under certain documents materially and adversely affecting future declaration or payment of dividends, or the occurrence of other market or credit factors that, in the opinion of Prudential, would make retention of such securities by a Series detrimental to the interests of the unit holders. The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Series' portfolio.

Applicant's Legal Analysis

1. Section 12(d)(3), with limited exceptions, prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1(b) exempts from section 12(d)(3) purchases by an investment company of securities of an issuer that derived more than fifteen percent of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than five percent of the value of its total assets in securities of the issuer. Notwithstanding the above, rule 12d3–1(c) prohibits any registered investment company from acquiring any security issued by that company from acquiring any security issued by that company's investment adviser, promoter, or principal underwriter, or any affiliated person of such investment adviser, promoter, or principal underwriter.

2. Applicant seeks an exemption to permit any Series to invest up to approximately twenty percent, but in no event more than 20.5 percent, of the value of its total assets in securities of an issuer that derives more than fifteen percent of its gross revenues from securities related activities. Applicant and each series will comply with all of the provisions of rule 12d3–1, except for the five percent limitation on the amount of assets that may be invested in securities of issuers that derived more than fifteen percent of their gross revenues from securities related activities in their most recent fiscal year.

3. Applicant asserts that section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risk of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses.

4. One potential conflict discussed by applicant could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant argues that this concern does not arise in connection with its application because neither the applicant nor the sponsor has discretion in choosing the securities or percentage amount purchased. The security must first be included in the DJIA, which is unaffiliated with Prudential and applicant, and must also qualify as one of the five highest dividend yielding securities as calculated by the objective formula described above.

5. Applicant also states that the effect of a Series' purchase on the stock of parents of broker-dealers would be *de minmis*. Applicant asserts that the common stocks of securities related issuers represented in the DJIA are widely held, have active markets, and that potential purchases by any Series would represent an insignificant amount of the outstanding common stock and the trading volume of any of these issues. According to applicant, it is highly unlikely that purchases of these securities by a Series would have any significant impact on the market valuer of any such securities.

6. Another potential conflict of interest discussed by applicant could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though the broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant and each Series agree, as a condition of this application, that no company held in the portfolio of a Series nor any affiliate thereof will act as broker for any Series in the purchase or sale of any security for its portfolio.

7. Applicant states that the requested relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant's Condition

Applicant agrees that the requested exemptive order may be conditioned upon no company held in the portfolio of a Series, nor any affiliate thereof, acting as broker for any Series in the purchase of any security for the Series' portfolio.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–10982 Filed 5–5–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26043]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 29, 1994.

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 completed 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 May 23, 1994, 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.

Central and South West Corporation, et al. (70–7918)

Central and South West Corporation ("CSW"), a registered holding company, and two of its nonutility subsidiaries, CSW Energy, Inc. ("Energy"), CSW Development-I, Inc. ("Energy Sub"), a nonutility subsidiary of Energy Sub, CSW Mulberry, Inc. ("CSW Mulberry"), and a proposed nonultility subsidiary of Energy Sub, CSW Mulberry II, Inc. ("Mulberry LP Sub"), each located at 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202; and three other nonutility subsidiaries, ARK/CSW Development Partnership ("Joint Venture"), Polk Power Partners, L.P. ("Partnership") and Polk Power GP

("JV Sub"), Inc., and a proposed nonutility subsidiary of Joint Venture, Polk Power GP II, Inc. ("Mulberry GP sub"), each located at 23046 Avenida de la Carlota, Suite 400, Laguna Hills, California 92653 (collectively, "Applicants"), have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), and 12(c) of the Act and Rules 42, 43, 45 and 50(a)(5) thereunder to their application-declaration previously filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45, 50(a)(5) and 51 thereunder.

By order dated February 18, 1992 (HCAR No. 25477) ("February Order"), CSW, Energy, Energy Sub and the Joint Venture were authorized, among other things, to contribute up to $9 million to the capital of the Partnership, to borrow up to $120 million ("Construction Financing") to construct and develop a 122.2 megawatt, gas-fired cogeneration facility and integrated carbon dioxide plant steam host ("Project") located near Bartow in Polk County, Florida, and to convert such borrowings to a term loan facility ("Term Loan Financing") with a lender or group of lenders ("Lenders") upon completion of the project. Under the February Order, CSW, Energy, Energy Sub and the Joint Venture were also authorized to organize the Partnership to own and operate the Project and organize JV Sub to be the sole general partner of the Partnership.

Once operational, the Project would be a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978 ("PURPA"). JV Sub is a wholly owned subsidiary of the Joint Venture, a general partnership owned equally by Energy Sub and ARK Energy, Inc. ("ARK"), a nonassociate corporation. JV Sub, a corporation, has a 1% interest in the Partnership. The two limited partners are Energy Sub and ARK. They each hold a 49.5% interest in the Partnership.

By subsequent order dated August 6, 1992 (HCAR No. 25599) ("August Order"), the Commission authorized, among other things, certain technical changes to the Project description and the Partnership to enter into a construction agreement with Energy or Energy Sub for the purpose of developing and constructing the Project. The August Order also authorized the Applicants to increase the amount of Construction Financing to $135 million and to increase the amount of capital contributions that Energy Sub and ARK would each contribute to the Partnership to $13.5 million.

By order dated March 19, 1993 (HCAR No. 25762) ("March Order"), the Applicants were authorized to: (1) increase the amount of Construction Financing to $160 million (2) increase the maximum amount, excluding advances, as defined below, of the aggregate equity contributions to the Partnership by JV Sub and Energy Sub to $32 million, constituting a maximum equity contribution equal to 20% of the amount to be financed; and (3) make, directly or indirectly through Energy, loans, open account advances, or additional equity contributions to the Partnership in an aggregate amount not to exceed $85 million ("Advances").

By order dated January 31, 1994 (HCAR No. 25983), the Commission authorized a change in the description of the Project and the formation of CSW Mulberry. In addition, the Commission authorized the investment of a new limited partner ("New Limited Partner") in the Partnership in lieu of the term loan financing for the Project and the issuance of corporate guaranties by the Applicants or stand-by letters of credit with the Applicants as account party in an amount not to exceed $50 million, such guaranties or letters of credit to support payment obligations of the Partnership required by the provider of third party financing for the Project or fuel suppliers, fuel transportation or other third parties under various project agreements.

The Applicants now propose that Energy Sub form a special purpose wholly owned subsidiary to be known as CSW Mulberry II, Inc. ("Mulberry LP Sub"). Mulberry LP Sub would be incorporated under the laws of the State of Delaware with an authorized capital of up to 1,000 shares of common stock without par value. In exchange for an assignment from Energy Sub to Mulberry LP Sub of all of Energy Sub's right, title and interest in and to CSW Mulberry, Energy Sub would subscribe to all of Mulberry LP Sub's common stock. It is further proposed that the Joint Venture form a special purpose wholly owned subsidiary to be known as Polk Power GP II, Inc. ("Mulberry GP Sub"). Mulberry GP Sub would be incorporated under the laws of the State of Delaware with an authorized capital of up to 1,000 shares of common stock without par value. In exchange for an assignment from the Joint Venture to Mulberry GP Sub of all of the Joint Venture's right, title and interest in and to JV Sub, the Joint Venture would subscribe to all of Mulberry GP Sub's common stock.

In the event that Mulberry LP Sub and Mulberry GP Sub are formed pursuant to the authority sought, the Applicants request authority to include Mulberry LP Sub and Mulberry GP Sub in the flow of funds for equity contributions, open account advances and intercompany loans on the terms and in the manner authorized by the prior orders of the Commission in this matter, above.

The Applicants request the authority to form Mulberry LP Sub and Mulberry GP Sub in order to limit the liability of Energy Sub and the Joint Venture and aid in the procurement of the Term Financing. It is anticipated that a pledge of the stock of CSW Mulberry and JV Sub by their holders, Energy Sub and the Joint Venture, respectively, which was required in connection with the Construction Financing, will be required in connection with the Term Financing. The requested authority is desirable to limit the liability of Energy Sub and the Joint Venture, which have acquired interests in several other partnerships and corporations that are unaffiliated with the Project. If Energy Sub and the Joint Venture make such pledges and the Partnership defaults in its repayment obligations under the terms of such Construction Financing or Term Financing, interests of Energy Sub and the Joint Venture that are not associated with the Project could be adversely affected by the actions taken by the provider(s) of such Construction Financing or Term Financing.

GPU Nuclear Corporation (70–8393)

GPU Nuclear Corporation ("GPUN"), One Upper Pond Road, Parsippany, NJ 07054, a wholly owned utility subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application under Sections 9(a) and 10 of the Act.

GPUN proposes to offer to non-affiliates, with nuclear or non-nuclear plants in the U.S. and abroad, a range of services that are based on the skills, expertise, experience, resources and facilities that it has developed relative to its normal core business operations ("Services"). The application outlines three general categories of Services that GPUN now contemplates—(i) Engineering and Technical Services, which would include power plant inspections and risk analysis, power plant accident analysis, power plant stress analysis, power plant operations analysis, power plant life extension analysis, nuclear fuels cycle analysis, power plant modification, design, installation, evaluation, testing and project management, power plant equipment corrosion control and failure analysis, chemical and metallurgical laboratory services, human factors engineering services, commercial grade dedication of equipment, radioactive waste services, plant decommissioning

services, mechanical, electrical and structural engineering services, nondestructive testing and examination services, and instrument calibration services; (ii) Management and Consulting Services, which would include nuclear plant decommissioning and decontamination management and consulting services, nuclear plant outage management and consulting services, quality assurance audits, medical services management and consulting services, and Final Safety Analysis Report licensing consultation and operations analysis; and (iii) Training and Education Services, which would include computer-based training, instructor training, nuclear plant operating room simulator certification and training, simulator maintenance and modification training, fire safety and plant and facility security training, and diesel equipment training.

The application also proposes to license or lease to non-affiliates the use of intellectual and proprietary property as well as the reserve capacity of laboratory or other support facilities. It is stated that the reserve capacity licensed or leased would not exceed 50% of the capacity of the laboratory and other support facilities available to GPUN.

The application proposes that GPUN be authorized through December 31, 1999 to enter into agreements, with terms of up to ten years and negotiated on an arm's-length basis, for the Services. It is stated that revenues received and expenses incurred in connection with the Services will be accounted for under appropriate accounts in accordance with the Uniform System of Accounts. The application also states that the net revenues from the Services will be used to reduce the cost of GPUN service charges to GPU electric public utilities.

The application states that GPUN expects not to materially increase its staff or capital investments to provide the Services. In addition, it is stated that for the five-year period for which an authorization is sought, the aggregate annual revenues from and expenses associated with the Services are not anticipated to exceed 5% of the total annual operating expenses of GPUN, which in 1993 were $421 million.

The application states that it could be advantageous to provide the Services through one or more new wholly-owned subsidiaries, each of which the application proposes that GPU form and acquire through the purchase of $1,000 in capital stock. Finally, the application states that GPUN will, on or before May 1, of each year, report to the Commission the Services provided for the preceding year as well as the revenues derived therefrom and the expenses associated therewith.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–10890 Filed 5–5–94; 8:45 am]

BILLING CODE 8010–01–M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Region 5 Advisory Board

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Location announcement.

SUMMARY: This is to announce the location for the Region 5 Advisory Board meeting scheduled for May 17 in Santa Fe as published in the **Federal Register**, April 13, 1994, page 17635.

DATE: Tuesday, May 17, 9 a.m. to 12:30 p.m.

ADDRESSES: Hotel Plaza Real, Nambe Room, 125 Washington Avenue, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 808 17th Street, NW., Washington, DC 20232, 202/416–2626.

Dated: May 3, 1994.

Jill Nevius,

Committee Management Officer.

[FR Doc. 94–10984 Filed 5–5–94; 8:45 am]

BILLING CODE 222–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Aviation Security Advisory Committee Meeting

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held May 23, 1994, from 10 a.m. to 2 p.m.

ADDRESSES: The meeting will be held in the MacCracken Room, tenth floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7451.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held May 23, 1994, in the MacCracken Room, tenth floor, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC. The agenda for the meeting will include reports from the Universal Access System Working Group, recommendations on airline ID/access, and an update on the Streamlined Enforcement Program. Attendance at the May 23, 1994, meeting is open to the public but is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Assistant Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7451.

Issued in Washington, DC on May 2, 1994.

Cathal L. Flynn,

Assistant Administrator for Civil Aviation Security.

[FR Doc. 94–10960 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sonoma County Airport, Santa Rosa, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use revenue from a PFC at Sonoma County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and 14 CFR part 158.

DATES: Comments must be received on or before June 6, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA. 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303. In addition, one copy of any comments submitted to the FAA

must be mailed or delivered to Mr. David Andrews, Director of Aviation, Sonoma County Airport at the following address: 2200 Airport Boulevard, Santa Rosa, California 95403–1091. Air carriers and foreign air carriers may submit copies of written comments previously provided to Sonoma County under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sonoma County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 20, 1994, the FAA determined that the application to impose and use a PFC submitted by the Sonoma County Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 19, 1994.

The following is a brief overview of the application.

Level of proposed PFC: $3.00

Proposed charge effective date: October 1, 1994

Proposed charge expiration date: April 1, 1998

Total estimated PFC revenue: $315,650.00

Brief description of the proposed projects: Land Acquisition for Approach Protection, Airfield Signage and Security Improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Sonoma County Airport.

Issued in Hawthorne, California, on April 20, 1994.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 94–10961 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Federal Transit Administration

[FHWA/FTA Docket No. 94–11]

A Review of the Congestion Mitigation and Air Quality Improvement Program; Public Meeting; Request for Comments

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice; request for comments; public meeting.

SUMMARY: The FHWA and the FTA request comments which will be used in developing and conducting a review of the Congestion Mitigation and Air Quality Improvement (CMAQ) Program, to be undertaken by the FHWA and the FTA in cooperation with the Environmental Protection Agency (EPA). The review's purpose is to determine whether the CMAQ program is meeting its goals under the Intermodal Surface Transportation Efficiency Act (ISTEA), Public Law 102–240, 105 Stat. 1914, and the Clean Air Act (CAA) as amended in 1990, Public Law 101–549, 104 Stat. 2399, to support transportation measures intended to assist nonattainment areas in meeting the National Ambient Air Quality Standards (NAAQS) and to maximize the program's effectiveness. Comments are solicited on the structure and content of the program review, specific policy questions raised in this notice, and other areas of policy and implementation which should be investigated.

This notice also announces a public meeting to be held on June 2, 1994. The purpose of the meeting is also to solicit input for the review. Those intending to participate are asked to notify Mr. Mike Savonis at the number listed under the **FOR FURTHER INFORMATION CONTACT** caption below.

DATES: Comments should be received on or before June 20, 1994. The public meeting will be held on June 2, 1994 at 11 a.m.

ADDRESSES: The public meeting will be held at the Nassif Building, U.S. Department of Transportation, Room 2230, 400 Seventh Street SW., Washington, DC 20590. Submit written, signed comments to FHWA/FTA Docket 94–11, Federal Highway Administration, Room 4232, HCC–10, Office of Chief Counsel, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 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 envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Savonis, Office of Environment and Planning, FHWA at (202) 366–2080 or Mr. Abbe Marner, Office of Planning, FTA at (202) 366–0096. Office hours are from 7:45 a.m. to 4:15 p.m., e.t. Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

(I) Background

Authorized at $6 billion for years 1992–1997, the CMAQ Program provides funds to States for transportation projects and programs that will contribute to attainment of an NAAQS. The Program focuses primarily on reductions in ozone precursors (hydrocarbons and oxides of nitrogen) and carbon monoxide emissions, but under certain conditions funds may be expended on projects to reduce small particulate matter (PM–10), as well. Typical projects include: development of HOV lanes, improvements to public transit facilities and equipment, traffic signalization and incident management improvements, bicycle and pedestrian projects, new ridesharing services, and establishment of vehicle inspection and maintenance programs.

The FHWA and the FTA, in consultation with the EPA, issued guidance providing eligibility criteria to govern CMAQ program expenditures on October 16, 1992. A series of questions and answers were also issued subsequent to the program guidance to address specific issues and eligibility questions as they have arisen. The program guidance was published in the **Federal Register** on January 4, 1993 (58 FR 146) and, with the questions and answers, is available through the Federal Electronic Bulletin Board System (202–366–3764). In addition, a brochure, "A Guide to the Congestion Mitigation and Air Quality Improvement Program," was issued in January 1994.

Three apportionments have been made for fiscal years 1992–1994, making a total of $2.7 billion available for the States' use. In FY 1992, $340 million was obligated by all States which was 42 percent of the amount available. In

FY 1993, $600 million was obligated for a rate of 62 percent. Overall, $940 million was obligated during the program's first two years for a cumulative rate of 53 percent. Unobligated funds under the CMAQ program lapse and are no longer available to the States after four years from the beginning of the fiscal year for which they were apportioned.

(II) Proposed Purpose and Scope

As with any new program, implementation of the CMAQ program has generated questions about new areas of eligibility, the purpose and effectiveness of funded projects and the coordination processes between transportation and air quality agencies at the Federal, State and local levels. Consequently, a review of CMAQ program implementation will be undertaken, as noted in the FHWA–FTA program guidance of October 16, 1992.

(A) Purpose

The review has two intended purposes: (1) To determine whether the CMAQ Program is meeting its goals under ISTEA and the CAA to support transportation measures intended to assist nonattainment areas to meet the National Ambient Air Quality Standards, and (2) to identify how the CMAQ program's benefits can be maximized.

(B) Objectives

(1) To evaluate the kinds of projects funded under the CMAQ program, their emission reductions, cost-effectiveness, the length of time the funding process took, and other attributes, and to determine what was not funded.

(2) To determine what transportation control measures (TCMs) have been included in the States' Implementation Plans and whether funding sources have been identified for them.

(3) To raise key issues, like the air quality impacts of various TCMs such as traffic flow improvements, possible obstacles to innovative projects, etc., and to evaluate those issues.

(4) To identify any barriers or constraints to effective program implementation, especially with respect to coordination processes between transportation and air quality agencies at the Federal, State and local levels.

(5) To identify, document and disseminate examples of well-thought-out projects, project development and coordination processes, and transportation/air quality analytical techniques for each of the transportation-related pollutants.

(6) To determine the effectiveness of current guidance, with an eye toward possible mid-course policy adjustments.

(7) To determine how projects funded under the CMAQ program affect greenhouse gases.

(C) Approach

The review will be conducted by the FHWA and the FTA, in cooperation with the EPA. It will be conducted in an open way to solicit concerns, recommendations and issues from all interested parties, including environmental groups, transportation agencies, energy interests, State air quality agencies and others.

A public meeting will be held to solicit ideas from any group wishing to comment, especially national transportation and air quality groups, State and local agencies, environmental interest groups, industry groups, and other interested parties. Those commenting should address the structure of the review, relevant policy questions, and their experience in program implementation. The need for a second meeting to describe review findings will be determined as the evaluation progresses.

The review will focus on the effectiveness of current policies and guidance as implemented at the project level. As such, the review will begin and end with policy considerations, but any potential changes in policy will be based on a review of specific projects and existing coordination processes. Issues will be examined from both a public policy and legal perspective with review of the CMAQ provisions of the ISTEA (Section 1008) and other relevant provisions of the ISTEA or CAA, as necessary.

(D) Policy Questions

Several policy questions have arisen as CMAQ program implementation has progressed. They serve as a starting point for the review. Other policy considerations will be evaluated as they arise. Current questions include:

(1) Have the needed coordination mechanisms between the transportation and air quality communities at the Federal, State and local levels been established? Have they been effective? What have the impediments been? What can Federal agencies do to smooth coordination processes?

(2) How effective are the projects that have been funded under the CMAQ program in reducing transportation emissions? How can their effectiveness be improved? Is it possible at this time to identify the types of projects that have the greatest air quality impact?

(3) What are the short term and long term impacts of funded projects? How should these considerations be included in the determination of funding priorities under the CMAQ program?

(4) Will the low obligation rate for the first two years of the program ultimately result in the lapsing of Federal funds? What can be done to avoid this?

(5) How should projects that have the potential to increase oxides of nitrogen be treated? Should they be eligible as long as aggregate emissions are reduced in line with the Clean Air Act's conformity requirements?

(6) Under current guidance, new or expanded rideshare services are eligible for CMAQ funds, but the routine funding of existing services for ridesharing, transit, traffic control and inspection and maintenance programs, etc., is ineligible. Is the current policy too restrictive because it assumes that further emission reductions will not result by funding currently existing services?

(7) Traffic flow improvements are legislatively eligible for CMAQ funding as a transportation control measure identified in the Clean Air Act. What are the pros and cons of funding these projects for emission reduction purposes? Should changes be pursued to exclude them from eligibility?

(8) Under the current legislation, projects in a nonattainment area are no longer eligible for CMAQ funds once the area achieves attainment of the NAAQS and is redesignated as a maintenance area. Would a change to allow the use of CMAQ funds in newly redesignated areas constitute good public policy even if the State's remaining nonattainment areas lose CMAQ funds as a result?

(9) Projects that are not expected to contribute to emission reductions prior to the scheduled attainment date under the Clean Air Act are not eligible for CMAQ funds. Should any project which reduces emissions be eligible even if it is scheduled for completion after the attainment date?Should a project whose construction is not expected to start until after the attainment date be eligible?

(E) Project-Level Review

The project-level review will focus on implementation of the CMAQ program in the 10 States with the worst ozone and carbon monoxide pollution. These States receive the largest apportionments under the CMAQ program, almost two-thirds of each year's total. The States and their share of apportionments are:

	Percent
California	14.8
Texas	9.9
New Jersey	5.8
Ohio	4.4
Maryland	3.1
New York	10.5
Pennsylvania	6.0
Illinois	4.9
Massachusetts	4.1
Florida	3.0
Total	66.5

If time permits, the projects funded under the CMAQ program in one State in FHWA Regions 7, 8 and 10 will also be reviewed.

Each State will be visited by FHWA, FTA and EPA representatives to conduct interviews with Federal, State, and MPO officials and other interested parties. A sample of each State's projects will be examined in detail in light of the policy considerations above, the program guidance, and other factors as they arise. A representative sample will be developed in keeping with standard review and statistical procedures.

Sources of information on the CMAQ program as a whole will also be consulted. Such sources will include the States' annual reports on CMAQ program obligations, DOT fiscal and management reporting data, and reports on the program from government and nongovernment agencies.

To determine the CMAQ program's impact on greenhouse gases, information will be taken from the States' annual reports on funded projects and other sources, and background information on carbon dioxide emissions from transportation sources.

(F) Expected Schedule

Site visits to the States mentioned above will be conducted in the spring and early summer of 1994. A final report providing findings and recommendations will be released later in the year, with additions or changes to the program guidance to follow, as necessary. The report will be available from the FHWA Office of Environment and Planning hotline at (202) 366–2069.

Issued on: May 2, 1994.

Rodney E. Slater,

Federal Highway Administrator.

Gordon J. Linton,

Federal Transit Administrator.

[FR Doc. 94–10898 Filed 5–5–94; 8:45 am]

BILLING CODE 4910–22–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

USTR Termination of Section 1377 Determination

AGENCY: Office of the United States Trade Representative.

ACTION: Termination of Affirmative Determination under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 of a Violation of a Trade Agreement by Japan.

SUMMARY: On February 28, 1994, the Office of the U.S. Trade Representative (USTR) published a Federal Register notice (59 FR 9503) announcing an affirmative determination under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) that certain practices of Japan with respect to cellular telephone products and services were not in compliance with Japan's commitments under a June 28, 1989 agreement on third party radio and cellular telecommunications equipment. Following negotiations with Japan, the Governments of Japan and the United States reached an agreement on March 12, 1994 that resolves U.S. concerns. On April 11, 1994, the Government of Japan forwarded to USTR the deployment plan called for under the March 12 agreement. As a result, on April 11, 1994, the U.S. Trade Representative terminated the affirmative determination under Section 1377.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this termination notice should be directed to David Long, Office of Industry Affairs, (202) 395–6160, or Laura B. Sherman, Office of the General Counsel, (202) 395–3150, Office of the United States Trade Representative, 600 Seventeenth Street, NW., Washington, DC 20506.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 94–10925 Filed 5–5–94; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 87
Friday, May 6, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:36 a.m. on Wednesday, May 4, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Acting Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice or the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: May 4, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–11139 Filed 5–4–94; 3:19 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:19 a.m. on Tuesday, May 3, 1994, the Corporation's Board of Directors determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of personnel matters.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter 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) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Dated: May 3, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–11013 Filed 5–3–94; 4:53 pm]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 11, 1994.

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: May 3, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–11119 Filed 5–4–94; 2:19 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure

(Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at approximately nine-thirty a.m. on Tuesday, April 19, 1994 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide nine appeals from National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtel, Jr., and John R. Simpson.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 21, 1994.

Edward F. Reilly, Jr., Chairman,

U.S. Parole Commission.

[FR Doc. 94–11012 Filed 5–3–94; 4:52 pm]

BILLING CODE 4410–01–M

Corrections

Federal Register
Vol. 59, No. 87
Friday, May 6, 1994

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 Indian Affairs

25 CFR Chapter I

American Indian Agricultural Resource Management Act

Correction

In proposed rule document 94-9701 beginning on page 21872, in the issue of Tuesday, April 26, 1994, make the following correction:

On page 21872, in the second column, under **DATES:**, in the ninth line, "May 26, 1994" should read "June 27, 1994".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

National Park Service

[Order No. 1, Amendment 6]

Superintendents, et al., Rocky Mountain Region; Delegation of Authority

Correction

In notice document 94-9898 appearing on page 19740 in the issue of Monday, April 25, 1994, in the first column, in the first paragraph, in the second line, "February 27, 1994" should read "February 27, 1974".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 166

[CGD 94-023]

Port Access Routes; Approaches to Delaware Bay

Correction

In proposed rule document 94-7103 beginning on page 14126 in the issue of Friday, March 25, 1994, make the following correction:

1. On page 14128, in the first column, under the heading Precautionary Area, in the last line "754°" should read "75°".

BILLING CODE 1505-01-D

federal register

Friday
May 6, 1994

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 32 and 52
Federal Acquisition Regulation; Prompt Payment Act; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

[FAR Case 91–91]

Federal Acquisition Regulation; Prompt Payment Act

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes to the Federal Acquisition Regulation (FAR) to amend FAR policies and clauses on Prompt Payment. This proposed rule, in combination with changes made by Federal Acquisition Circular 84–45, dated March 31, 1989, will complete the implementation of changes made in OMB Circular A–125 (Revised), dated December 12, 1989, to comply with the Prompt Payment Act Amendments of 1988 (Public Law 100–496). Changes are also proposed to clarify, simplify, and correct inconsistencies in the existing FAR text and clauses. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 5, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets, NW, Room 4037, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAR case 91–91 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 91–91.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Circular (FAC) 84–45 published a final FAR rule in the **Federal Register** at 54 FR 13332, March 31, 1989, to implement changes required by the Prompt Payment Act Amendments of 1988 (Public Law 100–496). The Office of Management and Budget (OMB) implemented the statutory requirements by revising OMB Circular A–125, Prompt Payment. The Circular was published as a final rule in the **Federal Register** on December 21, 1989, and became effective 30 days after publication. OMB's final guidance differed somewhat from earlier proposed coverage which served as the basis for the FAR changes published in FAC 84–45. This proposed FAR rule implements the guidance published in OMB Circular A–125 (Revised).

Major FAR changes proposed include: (1) Clarifying policy on partial payments for partial performance by establishing coverage at FAR 32.102(d) and 32.903(f); (2) revising and adding definitions at FAR 32.902 to be in consonance with definitions in OMB Circular A–125 and to make related editorial changes; (3) adding coverage at FAR 32.904 to address an ongoing problem with contracts containing more than one set of payment terms; (4) clarifying policy at FAR 32.905(a)(1)(ii) concerning use of extended acceptance periods; (5) adding coverage at FAR 32.905(c)(6) to address construction prime contractor certification requirements under the clause at FAR 52.232–5; (6) adding coverage at FAR 32.905(j) to address the use and payment of "mixed" invoices; (7) adding coverage at FAR 32.907–1(b)(3) concerning interest penalties in relation to electronic funds transfers; (8) adding coverage at FAR 32.907–1(g) concerning additional interest penalties and contractor demands for such penalties; (9) adding coverage at FAR 32.910 to address construction contractors' payment of interest on unearned amounts under the clauses at FAR 52.232–5 and 52.232–27; and (10) revising the clause at FAR 52.232–5 to include the specific criteria required by A–125 for construction contractors' requests for progress payments. FAR clauses 52.232–5, 52.232–8, and 52.232–25, 52.232–26, 52.232–27, and 52.232–28 are amended to reflect the proposed FAR text changes. In addition, numerous changes are proposed to clarify, simplify, and correct inconsistencies in the existing FAR text and clauses. (Note: The requirements that no late payment penalty payments be made to certain foreign vendors were removed from the FAR by FAC 90–20, Item XIII, March 10, 1994, 59 FR 11368.)

B. Regulatory Flexibility Act

The proposed changes to FAR 32.102, subpart 32.9, and related part 52 clauses at 52.232–5, 52.232–8, 52.232–25, 52.232–26, 52.232–27, and 52.232–28 may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule will apply to all small businesses who contract with the Federal Government and to all small businesses who enter into construction contracts with contractors holding prime Federal construction contracts. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–91), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Approval for the affected FAR segments was originally provided under OMB Control Number 9000–0102.

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

Dated: April 29, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 32 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 32—CONTRACT FINANCING

2. Section 32.102 is amended by revising paragraph (d) to read as follows:

32.102 Description of contract financing methods.

* * * * *

(d) Partial payments for accepted supplies and services that are only a part of the contract requirements are authorized under section 305 of the Federal Property and Administrative Services Act (41 U.S.C. 255). OMB

Circular A–125, Prompt Payment, requires agencies to pay for partial delivery of supplies or partial performance of services unless specifically prohibited by the contract. Although partial payments are generally treated as a method of payment and not as a method of contract financing, using partial payments can assist contractors to participate in Government contracts without, or with minimal, contract financing. When appropriate, contract statements of work and pricing arrangements shall be designed to permit acceptance and payment for discrete portions of the work, as soon as accepted (but see 32.903(f)(2)).

* * * * *

3. Section 32.902 is amended by revising the definitions "Day", "Designated billing office", "Discount for prompt payment", and "Payment date"; and adding, in alphabetical order, the definitions "Invoice" and "Specified payment date" to read as follows:

32.902 Definitions.

* * * * *

Day, as used in this subpart, means calendar day, including weekends and holidays, unless otherwise indicated. (However, see 32.903(e)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

Designated billing office, as used in this subpart, means the office or person (governmental or nongovernmental) designated in the contract where the contractor first submits invoices and contract financing requests. This might be the Government disbursing office, contract administration office, office accepting the supplies delivered or services performed by the contractor, contract audit office, or a nongovernmental agent. In some cases, different offices might be designated to receive invoices and contract financing requests.

* * * * *

Discount for prompt payment means an invoice payment reduction voluntarily offered by the contractor, in conjunction with the clause at 52.232–8, Discounts for Prompt Payment, if payment is made by the Government prior to the due date. The due date is calculated from the date of the contractor's invoice. If the contractor has not placed a date on the invoice, the due date is calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day and a discount may be taken.

* * * * *

Invoice means a contractor's bill or written request for payment under the contract for supplies delivered or services performed.

* * * * *

Payment date means the date on which a check for payment is dated or the date an electronic funds transfer is specified for settlement at a Federal Reserve Bank (see 32.903(e)(2)).

* * * * *

Specified payment date means, for an electronic funds transfer (EFT) payment, the date which the Government has placed in the EFT payment transaction instruction given to the transfer network, as the date on which funds are to be transferred to the contractor's financial institution.

4. Section 32.903 is revised to read as follows:

32.903 Policy.

(a) All solicitations and contracts subject to this subpart shall specify payment procedures, payment due dates, and interest penalties for late invoice payment.

(b) The Government shall not make invoice and contract financing payments earlier than 7 days prior to the due dates specified in the contract unless the agency head, or designee, determines to make earlier payment on a case-by-case basis (see 32.908 for required clauses).

(c) Payment will be based on receipt of a proper invoice or contract financing request and satisfactory contract performance.

(d) Agency procedures shall ensure that, when specifying due dates, full consideration is given to the time reasonably required by Government officials to fulfill their administrative responsibilities under the contract.

(e)(1) Checks shall be mailed on the same day they are dated.

(2) Payments made by electronic funds transfer shall be specified by the Government (see 32.902 definition of *specified payment date*) for settlement at a Federal Reserve Bank on or before the established due date.

(3) When the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(f)(1) Contracting officers shall, where the nature of the work permits, write contract statements of work and pricing arrangements that allow contractors to deliver, and receive invoice payments for, discrete portions of the work as soon as completed and found acceptable by the Government (see 32.102(d)).

(2) Unless specifically prohibited by the contract, the contractor is entitled to payment for accepted partial deliveries of supplies or partial performance of services that comply with all applicable contract requirements and for which prices can be calculated from the contract terms.

(3) Under some types of contracts, such as many cost-reimbursement contracts, partial payments cannot be made because the invoice price cannot be determined until after settlement of total contract costs and other contract-wide final arrangements. However, interim payments or contract financing payments may be made in accordance with the terms of the contract.

(g) Discounts for prompt payment offered by the contractor shall be taken only when payments are made within the discount period specific by the contractor.

(h) Agencies shall pay an interest penalty, without request from the contractor, for late invoice payments or improperly taken discounts for prompt payment. The interest penalty shall be absorbed within funds available for administration or operation of the program for which the penalty was incurred. The temporary unavailability of funds to make a timely payment does not relieve an agency from the obligation to pay interest penalties or the additional interest penalties discussed in 32.903(i) and 32.907–1(g).

(i) For contracts awarded after October 1, 1989, if the interest penalty is not paid within 10 days after it is due and the contractor makes a written demand for payment within 40 days after payment of the principal amount due, agencies shall pay an additional penalty amount, which shall be calculated in accordance with 32.907–1(g).

(j) If the contractor has assigned a contractor identifier (such as an invoice number) to an invoice or financing request, each payment shall use the contractor identifier (in addition to any Government or contract information) in describing any payment made.

5. Section 32.904 is revised to read as follows:

32.904 Responsibilities.

(a) Agency heads—

(1) Shall establish policies and procedures to implement this subpart;

(2) May prescribe additional standards for establishing due dates on

voice payments (32.905) and contract financing payments (32.906) necessary to support agency programs and foster prompt payment to contractors;

(3) May adopt different payment procedures to accommodate unique circumstances, provided such procedures are consistent with the policies in this subpart; and

(4) Shall inform contractors of points of contact within their cognizant payment offices to enable contractors to obtain status of invoices.

(b) Contracting officers, in drafting solicitations and contracts, shall identify for each contract line item number, subline item number, or exhibit line item number—

(1) Which of the applicable Prompt Payment clauses applies to each item when the solicitation or contract contains items which will be subject to different payment terms; and

(2) The applicable Prompt Payment food category (*i.e.*, which item numbers are meat or meat food products, which are perishable agricultural commodities, etc.), when using the clause at 52.232–25 which contains multiple payment terms for various classes of foods and edible products.

6. Section 32.905 is revised to read as follows:

32.905 Invoice payments.

(a) Except as prescribed in paragraphs (b), (c), and (d) of this section, the due date for making an invoice payment by the designated payment office shall be as follows:

(1) The 30th day after the designated billing office has received a proper invoice from the contractor (except as provided in paragraph (a)(2) of this section); or the 30th day after Government acceptance of supplies delivered or services performed by the contractor, whichever is later.

(i) On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day after the contractor has delivered supplies or performed services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract requirement. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities. Except in the case of a contract for the purchase of a commercial item or service as defined in 15.804–3(c)(3), including a brand name commercial item for authorized resale (*e.g.*, commissary items), the contracting officer may specify a longer period for constructive acceptance in the solicitation and resulting contract, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed. The contract file shall indicate the justification for extending the constructive acceptance period beyond 7 days. Extended acceptance periods shall not be a routine agency practice but shall be used only when necessary to permit proper Government inspection and testing of the supplies delivered or services rendered.

(iii) If the contract does not require submission of an invoice for payment (*e.g.*, periodic lease payments), the due date will be as specified in the contract.

(2) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(b) The due date for making payments on contracts that contain the clause at 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts, shall be as follows:

(1) The due date for work or services completed by the contractor shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the contractor.

(ii) The 30th day after Government acceptance of the work or services completed by the contractor. On a final invoice where the payment amount is subject to contract settlement actions (*e.g.*, release of claims), acceptance shall be deemed to have occurred on the effective date of the settlement. For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day after the contractor has completed the work or services in accordance with the terms and conditions of the contract (see also paragraph (b)(4) of this section). In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance.

(2) The due date for progress payments shall be the 30th day after Government approval of contractor estimates of work or services accomplished. For the sole purpose of computing an interest penalty that might be due the contractor, Government approval shall be deemed to have occurred constructively on the 7th day after contractor estimates have been received by the designated billing office (see also paragraph (b)(4) of this section). In the event that actual approval occurs within the constructive approval period, the determination of an interest penalty shall be based on the actual date of approval.

(3) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 30th day after the date of the contractor's invoice or payment request, provided a proper invoice or payment request is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(4) The constructive acceptance and constructive approval requirements described in paragraphs (b)(1) and (b)(2) of this section are conditioned upon receipt of a proper payment request and no disagreement over quantity, quality, contractor compliance with contract requirements, or the requested progress payment amount. These requirements do not compel Government officials to accept work or services, approve contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities. The contracting officer may specify a longer period for constructive acceptance or constructive approval, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed.

(c) The due date for making payments on construction contracts shall be as follows:

(1) The due date for making progress payments based on contracting officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project, shall be 14 days after receipt of a proper payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of

receipt, the payment due date shall be the 14th day after the date of the contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements. The contracting officer may specify a longer period in the solicitation and resulting contract if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract. The contract file shall indicate the justification for extending the due date beyond 14 days. The contracting officer or his representative shall not approve progress payment requests unless the certification and substantiation of amounts requested are provided as required by the clause at 52.232–5, Payments under Fixed-Price Construction Contracts.

(2) The due date for payment of any amounts retained by the contracting officer in accordance with the clause at 52.232–5, Payments under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval by the contracting officer for release to the contractor. This release of retained amounts shall be based on the contracting officer's determination that satisfactory progress has been made.

(3) The due date for final payments based on completion and acceptance of all work (including any retained amounts), and payments for partial deliveries that have been accepted by the Government (*e.g.*, each separate building, public work, or other division of the contract for which the price is stated separately in the contract) shall be as follows:

(i) Either the 30th day after receipt by the designated billing office of a proper invoice from the contractor, or the 30th day after Government acceptance of the work or services completed by the contractor, whichever is later. If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(ii) On a final invoice where the payment amount is subject to contract settlement action (*e.g.*, release of contractor claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(4) For the sole purpose of computing an interest penalty that might be due the contractor for payments described in paragraph (c)(3)(i) of this section, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the contractor has completed the work or services in accordance with the terms and conditions of the contract (see also paragraph (c)(5) of this section). In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance.

(5) The constructive acceptance and constructive approval requirements described in paragraph (c)(4) of this section are conditioned upon receipt of a proper payment request and no disagreement over quantity, quality, contractor compliance with contract requirements, or the requested amount. These requirements do not compel Government officials to accept work or services, approve contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities. The contracting officer may specify a longer period for constructive acceptance or constructive approval in the solicitation and resulting contract, if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract.

(6) Construction prime contracts contain special provisions concerning prime contractor payments to subcontractors, along with special prime contractor certification requirements. The Office of Management and Budget has determined that these certifications are not to be construed as final acceptance of the subcontractor's performance. The certification in 52.232–5(c) implements this determination; however, certificates are still acceptance if the contractor deletes paragraph (c)(4) of 52.232–5.

(d) Due dates for payments of contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are as follows:

(1) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), as further defined in Public Law 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(2) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), will be as close as possible to, but not later than, the 7th day after product delivery.

(3) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(4) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise about the proper classification of a specific product, prevailing industry practices should be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the bidder making the representation.

(e) A proper invoice must include the items listed in paragraphs (e)(1) through (e)(8) of this section. If the invoice does not comply with these requirements, the contractor must be notified of the defect within 7 days after receipt of the invoice at the designated billing office (3 days on contracts for meat, meat food products, or fish; 5 days on contracts for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils). The reason that the invoice is not a proper invoice must be specified. If such notice is not timely, then an adjusted due date for the purpose of determining an interest penalty, if any, will be established in accordance with 32.907–1(b).

(1) Name and address of the contractor.

(2) Invoice date. (Contractors are encouraged to date invoices as close as possible to the date of mailing or transmission.)

(3) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(4) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(5) Shipping and payment terms (*e.g.*, shipment number and date of shipment, Prompt Payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(6) Name and address of contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(7) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

(8) Any other information or documentation required by the contract (such as evidence of shipment).

(9) While not required, contractors are strongly encouraged to assign an identification number to each invoice.

(f) All invoice payments shall be supported by a receiving report or any other Government documentation authorizing payment. The agency receiving official should forward the receiving report or other Government documentation to the designated payment office by the 5th working day after Government acceptance or approval, unless other arrangements have been made. This period of time does not extend the due dates prescribed in 32.905. Acceptance should be completed as expeditiously as possible. The receiving report or other Government documentation authorizing payment shall, as a minimum, include the following:

(1) Contract number or other authorization for supplies delivered or services performed.

(2) Description of supplies delivered or services performed.

(3) Quantities of supplies received and accepted, if applicable.

(4) Date supplies delivered or services performed.

(5) Date supplies or services were accepted by the designated Government official (or progress payment request was approved if being made under the clause at 52.232–5, Payments under Fixed-Price Construction Contracts, or the clause at 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts).

(6) Signature, or when permitted by agency regulations, electronic equivalent, printed name, title, mailing address, and telephone number of the designated Government official responsible for acceptance or approval functions.

(7) If the contract provides for the use of Government certified invoices in lieu of a separate receiving report, the Government certified invoice must also contain the information described in paragraphs (f)(1) through (f)(6) of this section.

(g) When a discount for prompt payment is to be taken, payment will be made as close as possible to, but not later than, the end of the discount period. Payment terms are specified in the clause at 52.232–8, Discounts for Prompt Payment.

(h) The designated billing office shall immediately annotate each invoice with the actual date it receives the invoice.

(i) The designated payment office shall annotate each invoice and receiving report with the date a proper invoice or receiving report was received by the designated payment office.

(j) Contractors may be encouraged, but cannot be required to submit separate invoices for products with different payment due dates under the same contract or order. When an invoice is received which contains items with different payment periods (a mixed invoice), the payment office shall comply with all contractual and statutory payment provisions. In dealing with mixed invoices the payment office may, subject to agency policy—

(1) Pay all items at the later of the due dates, provided applicable interest penalties are also paid;

(2) Pay all items at the earlier of the due dates; or

(3) Split invoice payments, making payment by the due date applicable to each payment class.

32.906 [Amended]

7. Section 32.906 is amended in the first sentence of paragraph (a) by inserting the words "or designee," after the word "head,".

8. Section 32.907–1 is amended in paragraphs (a)(1) and (a)(2) by removing the words "has been" and inserting "was" in their place; and by revising paragraphs (b), (d), and (g) to read as follows:

32.907–1 Late invoice payment.

* * * * *

(b) The interest penalty computation shall not include—

(1) The time taken by the Government to notify the contractor of a defective invoice, unless it exceeds the periods prescribed in 32.905(e);

(2) The time taken by the contractor to correct the invoice. If the designated billing office failed to notify the contractor of a defective invoice within the periods prescribed in 32.905(e), the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the contractor will be based on this adjusted due date; and

(3) The period between the date of an attempted electronic funds transfer and the date the contractor furnishes correct electronic funds transfer data; *provided*, the Government notifies the contractor of the defective data within 7 days after the Government receives notice that the transfer could not be completed because of defective data.

* * * * *

(d) The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). The rate in effect on the day after the due date shall remain fixed during the period for which an interest penalty is calculated. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. Information concerning this interest rate can be obtained from the Department of the Treasury, Finance Management Branch, Washington, DC 20227, telephone (202) 208–1515. Interest calculations shall be based upon a 360-day year. The interest penalty will accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. The interest penalty amount, interest rate and the period for which the interest penalty was computed, will be separately stated by the designated payment office on the check, in accompanying remittance advice, or for Electronic Funds Transfer (EFT) by an appropriate electronic or other remittance advice. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

* * * * *

(g)(1) For contracts awarded on or after October 1, 1989, a penalty amount (calculated in accordance with paragraph (g)(3) of this section) shall be paid, in addition to the interest penalty amount, only if the contractor—

(i) Is owed an interest penalty;

(ii) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(iii) Makes a written demand to the designated payment office for additional penalty payment in accordance with

paragraph (g)(2) of this section, postmarked not later than 40 days after the date the invoice amount is paid.

(2)(i) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(A) Specifically assert that late payment interest is due under a specific invoice and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(B) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(C) State that payment of the principal has been received, including the date of receipt.

(ii) Demands must be postmarked on or before the 40th day after payment was made, except that—

(A) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made, or

(B) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the contractor has placed on the demand; *provided*, such date is no later than the 40th day after payment was made.

(3)(i) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(A) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500;

(B) After January 22, 1992, the additional penalty shall not exceed $5,000;

(C) The additional penalty shall never be less than $25.

(ii) If the interest penalty ceases to accrue in accordance with the limits stated in paragraphs (e) (1) and (2) of this section, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, but shall not exceed the limits specified in paragraph (g)(3)(i) of this section.

(iii) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(iv) The additional penalty does not apply to payments regulated by other Government regulations (for example, payments under utility contracts subject to tariffs and regulation).

9. Section 32.910 is added to read as follows:

§ 32.910 Additional Construction Policies.

(a) The Payments under Fixed-Price Construction clause (52.232–5), paragraph (d), and Prompt Payment for Construction Contracts clause (52.232–27), subparagraph (e)(6), provide for the contractor to pay interest on unearned amounts in certain circumstances. This interest shall be recovered from subsequent payments to the contractor. Therefore, no demand for payment shall normally be made. Contracting officers shall—

(1) Compute the amount in accordance with the clause;

(2) Provide the contractor with a final decision; and

(3) Notify the payment office of the amount to be withheld.

(b) The payment office shall be responsible for making the deduction of interest. Amounts collected in accordance with these provisions shall revert to the Treasury of the United States.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 52.232–5 is amended by revising paragraphs (b), (c), and (d)(2); adding paragraph (j); and adding paragraph headings to paragraphs (a), and (d) through (i) to read as follows:

52.232–5 Payments Under Fixed-Price Construction Contracts.

* * * * *

Payments Under Fixed-Price Construction Contracts (Date)

(a) *Payment of price.* * * *

(b) *Progress payments.* The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payment shall include the following substantiation:

(i) An itemization of the amounts requested related to the various elements of work required by the contract covered by the payment request.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if—

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) *Contractor certification.* Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made:

I hereby certify, to the best of my knowledge and belief, that—

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

_____

Name

_____

Title

_____

Date

(d) *Refund of unearned amounts.* * * *

* * * * *

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until—

* * * * *

(e) *Retainage.* * * *

(f) *Title, liability, and reservation of rights.* * * *

(g) *Reimbursement for bond premiums.* * * *

(h) *Final payment.* * * *

(i) *Limitation because of undefinitized work.* * * *

(j) *Interest computation on unearned amounts.* In accordance with 31 U.S.C. 3903(c)(1), the amount payable under paragraph (d)(2) of this clause shall be—

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills

auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

11. Section 52.232–8 is amended by revising paragraph (b) of the clause to read as follows:

52.232–8 Discounts for Prompt Payment.

* * * * *

Discounts for Prompt Payment (Date)

* * * * *

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer is specified for settlement at a Federal Reserve Bank. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

12. Section 52.232–25 is revised to read as follows:

52.232–25 Prompt Payment.

As prescribed in 32.908(c), insert the following clause:

(a) As authorized in 32.905(a)(1)(ii), the Contracting Officer may modify the date in subdivision (a)(5)(i) of this clause to specify a period longer than 7 days for constructive acceptance, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or evaluate the services performed, except in the case of a contract for the purchase of a commercial item or service as defined in FAR 15.804–3(c)(3), including a brand-name commercial item for authorized resale (*e.g.*, commissary items).

(b) As prescribed in 32.906(a), and only as allowed under agency policies and procedures, the Contracting Officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

Prompt Payment (Date)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in Federal Acquisition Regulation 32.902. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Due date.* (i) Except as indicated in subparagraph (a)(2) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt, at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; *provided* a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Certain food products and other payments.* (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils, are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), as further defined in Public Law 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(44)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise about the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the bidder making the representation.

(ii) If the contract does not require submission of an invoice for payment (*e.g.*, periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils). Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of the clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (Contractors are encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number of other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (*e.g.*, shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, Contractors are strongly encouraged to assign an identification number to each invoice.

(4) *Interest penalty.* An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, or contractor

compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) *Computing penalty amount.* The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (*e.g.*, tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) The period between the date of an attempted electronic funds transfer and the date the Contractor furnishes correct electronic funds transfer data; provided, the Government notifies the Contractor of the defective data within 7 days after the Government receives notice that the transfer could not be completed because of defective data.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233–1, Disputes.

(6) *Prompt payment discounts.* An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) *Additional interest penalty.* (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with (a)(7)(iii) of this clause shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(*1*) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made, or

(*2*) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; *provided*, such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(*1*) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500;

(*2*) After January 22, 1992, the additional penalty shall not exceed $5,000;

(*3*) The additional penalty shall never be less than $25.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified above.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (for example, payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*—(1) *Due dates for progress payments.* For contracts that provide for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (*insert day as prescribed by agency head; if not prescribed, insert 30th day*) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) *Due dates for other contract financing.* For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) *Interest penalty not applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213–1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(End of clause)

13. Section 52.232–26 is revised to read as follows:

52.232–26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.

As prescribed in 32.908(a), insert the following clause:

(a) As authorized in 32.905(b)(4), the Contracting Officer may modify the date in subdivision (a)(4)(i) of this clause to specify a period longer than 7 days for constructive acceptance or constructive approval, if required, to afford the Government a practicable opportunity to inspect and test the supplies furnished or evaluate the services performed.

(b) If applicable, as authorized in 32.906(a) and only as allowed under agency policies and procedures, the Contracting Officer may insert in paragraph (b) of this clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

Prompt Payment for Fixed-Price Architect-Engineer Contracts (Date)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in Federal Acquisition Regulation 32.902. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Due date.* The due date for making invoice payments shall be—

(i) For work or services completed by the Contractor, the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(iii) of this clause).

(B) The 30th day after Government acceptance of the work or services completed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions (*e.g.*, release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) The due date for progress payments shall be the 30th day after Government approval of Contractor estimates of work or services accomplished.

(iii) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt, at the time of receipt, the payment due date shall be the 30th day after the date of the Contractor's invoice or payment request, provided a proper invoice or payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(2)(i) through (a)(2)(viii) of this clause. If the invoice does not comply with these requirements, the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (Contractors are encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (*e.g.*, prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

(viii) Any other information or documentation required by the contract.

(ix) While not required, Contractors are strongly encouraged to assign an identification number to each invoice.

(3) *Interest penalty.* An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount.* The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (*e.g.*, tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval shall be deemed to have occurred constructively as shown in subdivisions (a)(4)(i) (A) and (B) of this clause. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(A) For work or services completed by the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract.

(B) For progress payments, Government approval shall be deemed to have occurred on the 7th day after Contractor estimates have been received by the designated billing office.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) The period between the date of an attempted electronic funds transfer and the date the Contractor furnishes correct electronic funds transfer data; *provided*, the Government notifies the Contractor of the defective data within 7 days after the Government receives notice that the transfer could not be completed because of defective data.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between

the Government and Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable will be resolved in accordance with the clause at 52.233–1, Disputes.

(5) *Prompt payment discounts.* An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) *Additional interest penalty.* (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with subdivision (a)(6)(iii) of this clause shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owned an interest penalty;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(6)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(*1*) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated billing office on or before the 40th day after payment was made, or

(*2*) If the postmark is illegible or nonexistent and the designated billing office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; *provided*, such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except:

(*1*) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500.

(*2*) After January 22, 1992, the additional penalty shall not exceed $5,000.

(*3*) The additional penalty shall never be less than $25.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified above.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (for example, payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*—(1) *Due dates for progress payments.* If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (*insert day as prescribed by agency head; if not prescribed, insert 30th day*) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) *Due dates for other contract financing.* For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) *Interest penalty not applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(End of clause)

14. Section 52.232–27 is revised to read as follows:

52.232–27 Prompt Payment for Construction Contracts.

As prescribed in 32.908(b), insert the following clause:

(a) As authorized in 32.905(c)(1), the Contracting Officer may modify the date in subdivision (a)(1)(i)(A) of the clause to specify a period longer than 14 days if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the Contractor's performance under the contract.

(b) As authorized in 32.905(c)(5), the Contracting Officer may modify the date in subdivision (a)(4)(i) of the clause to specify a period longer than 7 days for constructive acceptance or constructive approval if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or evaluate the services performed.

(c) If applicable, as authorized in 32.906(a) and only as allowed under agency policies and procedures, the Contracting Officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

Prompt Payment for Construction Contracts (Date)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in Federal Acquisition Regulation 32.902. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Types of invoice payments.* For purposes of this clause, there are several types of invoice payments which may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments shall be 14 days after receipt of the payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt, at the time of receipt, the payment due date shall be the 14th day after the date of the Contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (*e.g.*, each separate building, public work, or other division of the contract for which the price is stated separately in the contract):

(A) The due date for making such payments shall be either the 30th day after receipt by the designated billing office of a proper invoice from the Contractor, or the 30th day after Government acceptance of the work or services completed by the Contractor, whichever is later. If the designated billing office fails to annotate the invoice with the date of actual receipt, at the time of receipt, the invoice payment due date

shall be the 30th day after the date of the Contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (*e.g.*, release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(2) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(2)(i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause:

(i) Name and address of the Contractor.

(ii) Invoice date. (Contractors are encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (*e.g.*, prompt payment discount terms).

(vi) Name and address of contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

(viii) For payments described in subdivision (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232–5, Payments under Fixed-Price Construction Contracts.

(ix) Any other information or documentation required by the contract.

(x) While not required, Contractors are strongly encouraged to assign an identification number to each invoice.

(3) *Interest penalty.* An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount.* The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (*e.g.*, tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in subdivision (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) The period between the date of an attempted electronic funds transfer and the date the Contractor furnishes correct electronic funds transfer data; provided, the Government notifies the Contractor of the defective data within 7 days after the Government receives notice that the transfer could not be completed because of defective data.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233–1, Disputes.

(5) *Prompt payment discounts.* An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) *Additional interest penalty.* (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with (a)(6)(iii) of this clause shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with (a)(6)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(*1*) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated billing office on or before the 40th day after payment was made, or

(*2*) If the postmark is illegible or nonexistent and the designated billing office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the

demand; *provided*, such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty that is due on or after January 22, 1990, except—

(*1*) For additional penalties due on or before January 22, 1992, such penalties shall not exceed $2,500.

(*2*) After January 22, 1992, the additional penalty shall not exceed $5,000.

(*3*) The additional penalty shall never be less than $25.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified above.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (for example, payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*—(1) *Due dates for progress payments.* If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (*insert day as prescribed by agency head; if not prescribed, insert 30th day*) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) *Due dates for other contract financing.* For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) *Interest penalty not applicable.* Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) *Subcontract clauses requirements.* The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) *Prompt payment for subcontractors.* A payment clause which obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) *Interest for subcontractors.* An interest penalty clause which obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause—

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the **Federal Register**, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) *Subcontractor clauses flowdown.* A clause requiring each subcontractor to include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) *Subcontract clauses interpretation.* The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions which—

(1) *Retainage permitted.* Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) *Withholding permitted.* Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) *Withholding requirements.* Permit such withholding without incurring any obligation to pay a late payment penalty if—

(i) A notice conforming to the standards of paragraph (g) of this clause has been previously furnished to the subcontractor; and

(ii) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)(i) of this clause has been furnished to the Contracting Officer.

(e) *Subcontractor withholding procedures.* If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, the Contractor shall—

(1) *Subcontractor notice.* Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) *Contracting Officer notice.* Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;

(3) *Subcontractor progress payment reduction.* Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;

(4) *Subsequent subcontractor payment.* Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

(i) Make such payment within—

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under subdivision (e)(5)(i) of this clause); or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the **Federal Register**, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) *Notice to Contracting Officer.* Notify the Contracting Officer upon—

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying—

(A) The amounts withheld under subparagraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended.

(6) *Interest to Government.* Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1), from the 8th day after receipt of the withheld amounts from the Government until—

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under subdivision (e)(5)(i) of this clause.

(f) *Third party deficiency reports*—(1) *Withholding from subcontractor.* If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under subparagraph (e)(6) of this clause—

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subdivision (f)(1)(i) of this clause.

(2) *Subsequent payment or interest charge.* As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall—

(i) Pay the amount withheld under subdivision (f)(1)(ii) of this clause to such first-tier subcontractor, or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the **Federal Register**, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) *Written notice of subcontractor withholding.* A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), specifying—

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) *Subcontractor payment entitlement.* The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) *Prime-subcontractor disputes.* A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) *Preservation of prime-subcontractor rights.* Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) *Non-recourse for prime contractor interest penalty.* The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the United States for such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.

(End of clause)

15. Section 52.232–28 is revised to read as follows:

52.232–28 Electronic Funds Transfer Payment Methods.

As prescribed in 32.908(d), insert the following clause:

Electronic Funds Transfer Payment Methods (Date)

Payments under this contract will be made by the Government either by check or electronic funds transfer (through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH), at the option of the Government. No later than 14 days before an invoice or contract financing request is submitted, the Contractor shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Contracting Officer or other Government official, as directed.

(a) *FEDLINE information.* For payment through FEDLINE, the Contractor shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfer of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) *ACH information.* For payment through ACH, the Contractor shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account ("C" for checking, "S" for savings).

(4) If the Contractor is a new enrollee to the ACH system, a "Payment Information Form," SF 3881, must be completed before payment can be processed.

(c) *Change of institution.* In the event the Contractor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) *Contractor documents.* The documents furnishing the information required in this clause must be dated and contain signature, title, and telephone number of the contractor official authorized to provide it, as well as the Contractor's name and contract number.

(e) *Delay of payment.* Contractor failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

(f) *Prompt payment.* (1) Payments made by electronic funds transfer shall be specified (see 32.902 definition of *specified payment date*) for settlement at a Federal Reserve Bank by the established due date.

(2) When payment by electronic funds transfer cannot be made because the Contractor furnished incorrect or incomplete data, no interest penalty is due for the period between the date of the attempted transfer and the date on which the Contractor furnishes correct data; *provided*, the Government notifies the Contractor within 7 days after the Government receives notice that the transfer could not be completed because of defective data.

(End of clause)

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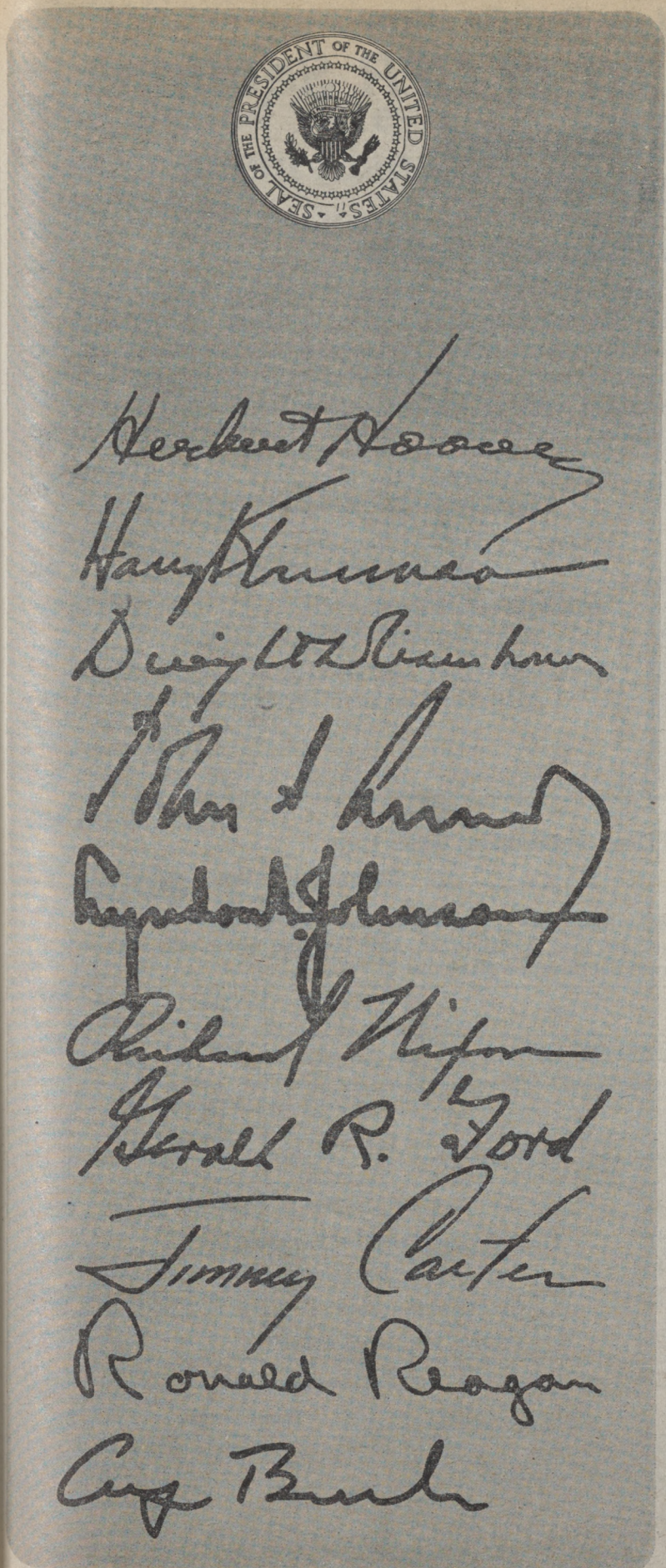
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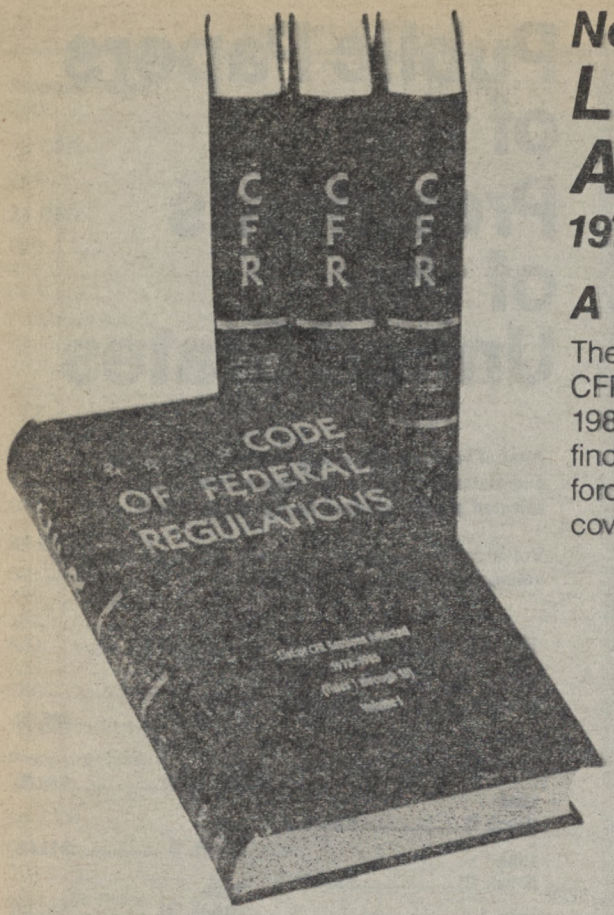
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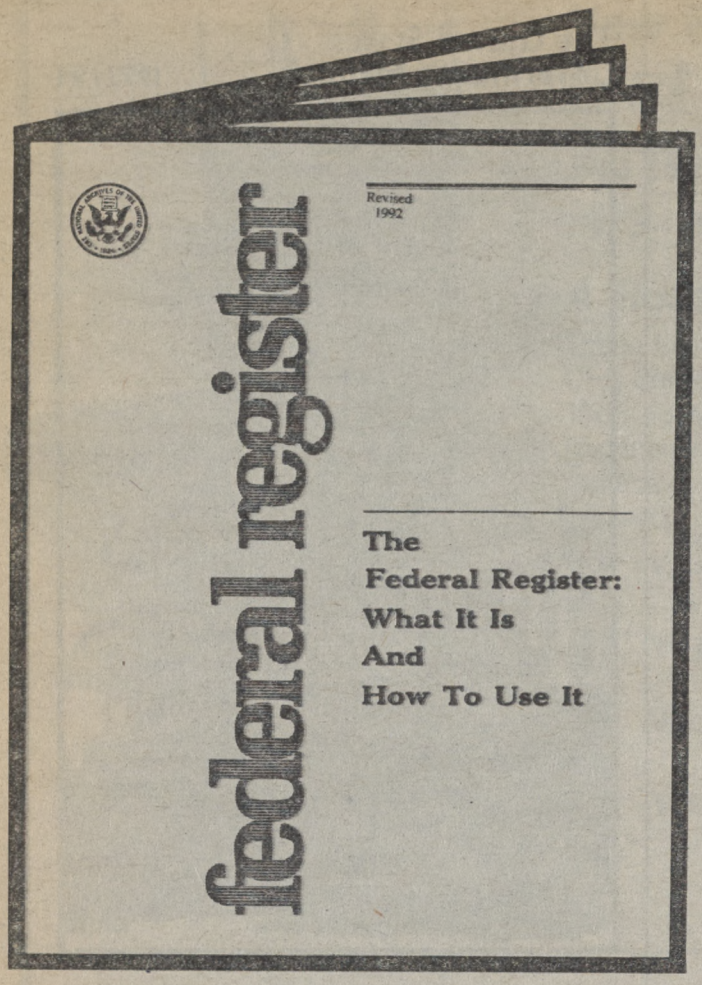
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