7–14–94
Vol. 59 No. 134

federal register

Thursday
July 14, 1994

United States
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SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

7–14–94
Vol. 59 No. 134
Pages 35847–36016

Federal Register

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July 14, 1994

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: July 28 at 9:00 am

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

RESERVATIONS: 202–523–4538

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV94-981-1IFR]

Almonds Grown in California; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 981 for the 1994–95 crop year. Authorization of this budget enables the Almond Board of California (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning July 1, 1994, through June 30, 1995. Comments received by August 15, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918; or Martin Engeler, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721, telephone 209–487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 981, both as amended [7 CFR part 981], regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California almonds are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable almonds handled during the 1994–95 crop year, which begins July 1, 1994, and ends June 30, 1995. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A), any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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

There are approximately 7,000 producers of California almonds under this marketing order, and approximately 115 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of California almond producers and handlers may be classified as small entities.

The budget of expenses for the 1994–95 crop year was prepared by the Almond Board of California, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of California almonds. They are familiar with the Board's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected receipts of California almonds. Because that rate will be applied to handlers' actual receipts, a rate must be established that will provide sufficient income to pay the Board's budgeted expenses.

The Board met on May 16, 1994, and unanimously recommended a 1994–95 budget of $9,435,262, $1,631,808 more than the previous year. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Research conference, $25,000 ($12,000), office

rent, $90,000 ($73,672), Board's financial audit, $12,500 ($9,900), data processing, $6,000 ($5,000), telephone, $31,000 ($30,000), utilities, $13,500 ($10,000), postage and delivery, $32,000 ($30,000), repairs and maintenance, $12,500 ($9,000) miscellaneous expenses, $10,000 ($5,000), dues, subscriptions, and registration fees $7,500 ($5,000), alliances with other organizations to provide information on almonds to consumers, $20,000 ($5,000), production research, $489,134 ($485,854), promotional activities, $6,575,000 ($5,400,000), crop estimate, $85,600 ($75,000), office equipment, $15,000 ($7,000), and the addition of $35,310 for an acreage survey, $300,000 for reserve replenishment, $150,000 for program accountability analyses to assess the effectiveness of the advertising and market development programs, and $50,000 for new product and issues research, for which no funding was recommended last year. Items which have decreased compared to those budgeted for 1993–94 (in parentheses) are: Salaries, $795,318 ($796,378), travel, $100,000 ($126,500), Board travel, $22,500 ($25,000), meetings, $35,000 ($40,000), equipment rent, $5,000 ($8,000), Board insurance, $40,000 ($45,000), security, $2,500 ($3,000), office supplies, $15,000 ($20,000), printing, $12,000 ($18,000), publications, $3,500 ($3,750), newsletter and releases, $25,000 ($35,000), econometric model and statistical analysis, $40,000 ($75,000), vehicles, $15,000 ($29,500), computers and software, $25,000 ($40,000), and furniture and fixtures, $10,000 ($46,500).

The Board also unanimously recommended an assessment rate of 2.25 cents per kernel pound, the same as last year. The Board further recommended that handlers should be eligible to participate in credit-back for their own market promotion activities for up to 1.00 cent of the 2.25 cents assessment rate, the same as last year. Revenues are expected to be $7,396,250 from administrative assessments (591,700,000 pounds @ 1.25 cents per pound), $1,065,060 from the portion of assessments eligible for credit but received by the Board from handlers who do not obtain credit for their own activities, $40,000 from interest, and $16,000 from the almond industry conference, for a total of $8,517,310.

These projections would result in a $917,952 shortfall in revenue based on current estimates of the 1994 crop yield. In light of this projected revenue shortfall, the Board recommended that any shortfall of up to $150,000 be applied against reserve replenishment and that the amount of money for this item be reduced accordingly. The Board also recommended that any additional shortfall be applied against its consumer TV activities and that the amount of money spent for these activities be reduced accordingly. However, the Board decided not to reduce the total amount for these two items by the amount of the expected shortfall because it expects additional revenue to accrue if the crop is larger than estimated. In the event a larger crop results in revenue in excess of the $9,435,261.77 budgeted, the Board recommended that consumer public relations activities be increased up to a total of $840,000, from $650,000.

Unexpended funds from 1994–95 may be carried over to cover expenses during the first four months of the 1995–96 crop year.

This action will impose an obligation to pay assessments on handlers. The assessments are uniform for all handlers and are the same as those imposed last year. The assessment cost will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the crop year begins on July 1, 1994, and the marketing order requires that the rate of assessment for the crop year apply to all assessable California almonds handled during the crop year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 981.341 is added to read as follows:

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

§ 981.341 Expenses and assessment rate.

Expenses of $9,435,262 by the Almond Board of California are authorized for the crop year ending June 30, 1995. An assessment rate for the crop year payable by each handler in accordance with § 981.81 is fixed at 2.25 cents per kernel pound of almonds. Of the 2.25 cents assessment rate, 1.00 cent per kernel pound of almonds is available for handler credit-back pursuant to § 981.441.

Dated: July 8, 1994.

Terry C. Long,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–17109 Filed 7–13–94; 8:45 am]

BILLING CODE 3410–02–P5

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to the authority of the Commissioner of Food and Drugs (the Commissioner) to issue certificates to mammography facilities. This authority is being redelegated to the Director and Deputy Director for Regulations and Policy, Center for Devices and Radiological Health (CDRH), the Director, Office of Health Information Programs (OHIP), CDRH, and the Director, Division of Mammography Quality and Radiation Programs, OHIP,

CDRH. This delegation excludes the authority to submit reports to the Congress.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: On June 10, 1993, the Acting Assistant Secretary for Health delegated to the Commissioner certain authorities under the Mammography Quality Standards Act of 1992 (Pub. L. 102–539), which amends Title III of the Public Health Service Act (42 U.S.C. 263b). As provided for in the delegation from the Acting Assistant Secretary for Health, the Commissioner is further redelegating to CDRH the authority to issue certificates to mammography facilities.

FDA is amending the delegations of authority under 21 CFR part 5 by adding new § 5.85 *Authority to issue certificates to mammography facilities* (21 CFR 5.85), which will give the Director and Deputy Director for Regulations and Policy, CDRH, the Director, OHIP, CDRH, and the Director, Division of Mammography Quality and Radiation Programs, OHIP, CDRH, authority to issue certificates relating to the certification of mammography facilities. This authority is directly related to current CDRH operations and programs.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 is revised to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354, 361, 362, 1701–1706, 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b, 264, 265, 300u–300u–5, 300aa–1, 300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314 of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. New § 5.85 is added to subpart B to read as follows:

§ 5.85 Authority to issue certificates to mammography facilities.

The following officials are authorized to issue certificates to mammography facilities under the relevant provisions of the Public Health Service Act (as amended by the Mammography Quality Standards Act of 1992 (Pub. L. 102–539)). The delegation excludes the authority to submit reports to Congress.

(a) The Director and Deputy Director for Regulations and Policy, Center for Devices and Radiological Health (CDRH).

(b) The Director, Office of Health Information Programs (OHIP), CDRH.

(c) The Director, Division of Mammography Quality and Radiation Programs, OHIP, CDRH.

Dated: July 5, 1994.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 94–17074 Filed 7–13–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS PAUL HAMILTON (DDG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval guided missile destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 28, 1994.

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS PAUL HAMILTON (DDG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(c) pertaining to placement of task lights not less than 2 meters from the fore and aft centerline of the ship in the athwartship direction; and Rule 21(a), pertaining to the masthead light unbroken arc of visibility over an arc of the horizon of 225 degrees and visibility from right ahead to abaft the beam of 22.5 degrees, without interfering with its special function as a naval guided missile destroyer. The Judge Advocate General has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

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

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Four of § 706.2 is amended by:

a. Adding the following vessel to Paragraph 15:

Vessel	No.	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS PAUL HAMILTON	DDG 60	1.88 meters.

b. Adding the following vessel to Paragraph 16:

Vessel	No.	Obstruction angle relative ship's headings
USS PAUL HAMILTON	DDG 60	101.35 thru 112.50 degree.

§ 706.2 [Amended]

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

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS PAUL HAMILTON	DDG 60	X	X	X	13.9

Dated: June 28, 1994.

H.E. Grant,

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

[FR Doc. 94–17037 Filed 7–13–94; 8:45 am]

BILLING CODE 3810–AE–P

Department of the Army

Corps of Engineers

33 CFR Part 334

Restricted Area for Gulf Coast Homeport at Mobile, AL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps is revoking the regulations which establish a naval restricted area in the waters of the Gulf of Mexico at the Naval Homeport located at Mobile, Alabama. The Naval Station Mobile has operationally closed and the restricted area is no longer needed. The restricted area was established to reduce safety hazards, security risks, and protect persons and property from the dangers encountered in the vicinity of the Naval Station.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps established restricted areas at each of the Navy Gulf Coast Homeports located at Ingleside, Texas; Mobile, Alabama; and Pascagoula, Mississippi on October 8, 1992 (57 FR 46303). The Naval Station in Mobile, Alabama is closed and accordingly, the restricted area established in 33 CFR 334.782 is no longer needed. The restricted areas in Ingleside, Texas and Pascagoula, Mississippi are not affected by the revocation of the Mobile Naval Station restricted area regulations.

Economic Assessment and Certification

This rule is being issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12291 do not apply.

These rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small government jurisdictions). It has been determined that these final rules will relieve a restriction on an area in the navigable waters of the United States and will not have a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

We have determined that notice of proposed rulemaking and public procedures, thereto, are unnecessary and impractical, because the revocation of these rules in 33 CFR 334.782 will not have any affect on the public except

that a water area will be reopened to use by the public.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps is amending part 334 of Title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

§ 334.782 [Removed]

2. Section 334.782 is removed.

Dated: July 1, 1994.

Approved:

Stanley G. Genega,

Major General, U.S. Army Director of Civil Works.

[FR Doc. 94–17116 Filed 7–13–94; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AG50

Examinations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its regulations concerning examinations acceptable for VA rating purposes. The amendment increases the number of situations in which a private physician's statement may be accepted as a VA examination. The intended effect is to allow earlier rating action on acceptable medical evidence with no additional burden to either the claimant or VA.

EFFECTIVE DATE: This amendment is effective August 15, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 1, 1994, VA published a proposal to amend 38 CFR 3.326 to permit acceptance of a private physician's statement for rating purposes in claims for increased compensation due to the increased severity of service-connected disabilities. Interested persons were invited to submit written comments, suggestions, or objections on or before April 4, 1994. One comment was received. The commenter expressed his strong support for the proposal, stating that it sought to streamline part of the VA benefits process by allowing a claimant greater flexibility in securing medical documentation. He praised the proposal as an example of reinventing VA at the highest levels. We thank the commenter for his statement and deeply appreciate his support. Our proposal also clarified the other types of claims in which a private physician's statement may be accepted for rating purposes and made technical corrections to VA regulations. No comments were received on these issues. Therefore, we have adopted the proposed amendment without change.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: July 1, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.326 [Amended]

2. In § 3.326, paragraph (b) is amended by removing the last sentence.

3. In § 3.326, paragraph (d) is revised and an authority citation is added at the end of the paragraph to read as follows:

§ 3.326 Examinations.

* * * * *

(d) A statement from a private physician that includes clinical manifestations and substantiation of diagnosis by findings of diagnostic techniques generally accepted by medical authorities, such as pathological studies, X-rays, and laboratory tests as appropriate, may be accepted for rating the following claims without further examination, provided it is otherwise adequate for rating purposes:

(1) A veteran's claim for increased compensation based either on the increased severity of a service-connected disability or on his or her spouse's need for aid and attendance under 38 U.S.C. 1115(1)(E);

(2) A veteran's pension claim, including housebound and aid and attendance benefits;

(3) A surviving spouse's claim for housebound or aid and attendance benefits;

(4) A surviving parent's claim for aid and attendance benefits; or

(5) A claim by or on behalf of a child based on permanent incapability of self-support (see § 3.356).

(Authority: 38 U.S.C. 501(a)).

§ 3.351 [Amended]

4. In § 3.351(a)(2), the authority citation is revised to read as follows:

(Authority: 38 U.S.C. 1115(1)(E)).

[FR Doc. 94–16946 Filed 7–13–94; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 233

Removal of Donation to a Charitable Organization From the Provisions for the Disposition of Forfeited Property

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: To be consistent with current statutory provisions for the disposition of forfeited property, this final rule amends Postal Service regulations by removing the provision that forfeited property may be donated to a charitable organization.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Postal Inspector-Attorney Frederick J. Rosenberg, (202) 268–5477.

SUPPLEMENTARY INFORMATION: Postal Service regulations concerning the disposition of forfeited property acquired by the Postal Inspection Service are published in title 39 of the

Code of Federal Regulations (CFR) as § 233.7(i). It is necessary to amend the section to remove paragraph (1)(v), donation of forfeited property to a charitable organization, to make the section consistent with current statutory provisions that authorize methods for the disposition of forfeited property.

Section 233.7(i)(1) is amended by: (1) adding "or" to paragraph (iv); (2) removing the text of paragraph (v); and (3) renumbering paragraph (vi) as paragraph (v).

List of Subjects in 39 CFR Part 233

Crime, Law enforcement, Postal Service, seizures and forfeitures.

Accordingly, 39 CFR part 233 is amended as set forth below.

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. 95–4542, as amended), 5 U.S.C. App. 3.

2. Section 233.7 is amended by revising paragraphs (i)(1)(iv) and (v) and removing paragraph (i)(1)(vi) to read as follows:

§ 233.7 Forfeiture authority and procedures.

* * * * *

(i) * * *

(iv) Destroy the property; or

(v) Dispose of the property as otherwise permitted by law.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94–17008 Filed 7–13–94; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 35 and 300

[FRL–5011–8]

National Oil and Hazardous Substances Pollution Contingency Plan; Cooperative Agreements and Superfund State Contracts for Superfund Response Actions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating largely technical revisions to four sections of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA is also promulgating conforming revisions to two sections of the administrative requirements for CERCLA-funded Cooperative Agreements and Superfund State Contracts for Superfund Response Actions.

The first NCP revision clarifies that EPA may acquire an interest in real estate in order to conduct a Superfund (Fund)-financed remedial action only if the State in which the interest is located agrees to accept transfer of that interest upon completion of the remedial action. The second revision clarifies that a Federal agency has discretionary authority over the expenditure of its funds when acting as an expert agency providing assistance in a cleanup. The third revision explains that when EPA extends the operational and functional period of a remedial action, it will fund such extensions as part of the remedial action. The fourth revision clarifies that an on-scene coordinator (OSC) may be authorized to coordinate and direct appropriate response action, not merely a removal action.

EFFECTIVE DATE: This final rule is effective August 15, 1994.

ADDRESSES: The record supporting this rulemaking is contained in the Superfund Docket and is available for inspection, by appointment only (telephone—202–260–3046), between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 (Mail Code—5203G), at (703) 603–8769, or the RCRA/Superfund Hotline at 1–800–424–9346 (in Arlington, Virginia at (703) 920–9810).

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Background

The Environmental Protection Agency (EPA or the Agency) is today promulgating largely technical revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA is also promulgating conforming changes to two sections of 40 CFR part 35, subpart O (hereafter subpart O), the administrative requirements for CERCLA-funded Cooperative Agreements and Superfund State Contracts. The rationale for the rule and a discussion of its background may be found in the preamble to the proposed rule, at 58 FR 53688, October 18, 1993. Two commenters submitted comments concerning two of the proposed revisions. A discussion of those comments follows.

II. Response to Comments

EPA proposed to change the definition of "On-scene coordinator" in NCP section 300.5 to mean the Federal official predesignated by EPA or the USCG to coordinate and direct Federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal or other response actions under subpart E of the NCP. One commenter opposed EPA's proposed revision of the definition. The commenter believes that "EPA is moving towards eliminating the distinction between remedial project managers (RPMs) and having only site managers." He further argued, that "considering existing contracts and differences in the programs," that he would "not like to see the day * * * where an individual is an OSC on one site and an RPM on the next on a routine basis."

In response, EPA notes that it proposed to revise the definition of "On-scene Coordinator" (OSC) in NCP section 300.5 to make clear only that the OSC *may* be authorized in appropriate cases, not that the OSC *must* be authorized in all cases, to implement any necessary response action, not merely a removal action. The rule change was not intended to eliminate the distinction between RPMs and OSCs, but was proposed to promote efficiency in the management of remedial action projects, to avoid the necessity of assigning both an OSC *and* an RPM to sites where multiple types of response action are necessary. The Agency also expressed belief in the preamble to the proposed rule that it is important to have the flexibility to assign one "site manager" to a site—either an OSC or an RPM—and for the OSC and RPM to have the ability to supervise both removal and remedial actions, as circumstances warrant. In response to the commenter's objection that existing contracts and differences in the programs made the proposed change an inappropriate idea, EPA acknowledged in the preamble to the proposed rule that cross-training of OSCs and RPMs may be needed to implement this idea. OSCs will continue to be primarily charged with

overseeing removal actions; however, in appropriate cases (e.g., where multiple actions are necessary), the OSC may be authorized to oversee the remedial action activities. Thus, EPA is making no change to the rule language proposed.

EPA proposed to revise NCP section 300.510(f) to provide that, in the case of a Fund-financed remedial action, a State would be required to accept the transfer of an interest in real estate acquired "upon completion of the remedial action." One commenter asserted that EPA's preamble discussion of "completion of the remedial action" as "the point at which O&M measures would be initiated if started in a timely fashion," itself creates an ambiguity. The commenter notes that, "aside from the obvious subjectivity of the definition, it is contrary to the definition of when O&M starts under 40 CFR 300.435(f)." The commenter argued that to "remedy this discrepancy, EPA should not establish a separate definition to 'completion of the remedial action,'" but should "simply specify 'the remedial action is complete when O&M starts pursuant to 40 CFR 300.435(f).'"

In response, EPA agrees with the commenter and will change the final rule to provide that "completion of the remedial action" means the point at which O&M measures would be initiated pursuant to section 300.435(f). For sites other than ground or surface-water sites, O&M would generally begin when the remedy has been constructed, is operational and functional, and has attained ROD objectives (e.g., the landfill and leachate collection system are built as called for in the ROD, are operational, and need only be maintained). For ground- and surface-water restoration remedies, O&M begins after up to 10 years of restoration measures. *See* NCP section 300.435(f). (Note, however, that the requirement of a State assurance with respect to transfer of real property is not limited to sites at which the State would be conducting O&M; the definition of the O&M initiation point in NCP section 300.435(f) is used to identify the point at which transfer would occur regardless of whether the State or some other entity is in fact responsible for conducting O&M at the site.) The final rule, like the present rule, allows for earlier transfers if agreed to in writing by EPA and the State. *See* 55 FR 8779 (March 8, 1990). ("Completion of the remedial action," for purposes of NCP section 300.510(f) should not be confused with "construction completion," which occurs at an earlier point in the process. *See* 58 FR 12142, (March 2, 1993). It is also not relevant to determining the date at which all response action has been completed for purposes of the statute of limitations in 40 U.S.C. 9613(g).)

III. Summary of Supporting Analyses

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). EPA may certify, however, that the rule will not have a significant economic impact on a substantial number of entities.

This final rule will not have a significant economic impact on small entities since its effect would be largely to clarify EPA's original intent under the 1990 NCP. There is no additional impact on the regulated community due to today's final rule, and no new obligations would be imposed on any party. Accordingly, EPA hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

There are no information collection requirements imposed by this rule.

List of Subjects

40 CFR Part 35

Environmental protection, Accounting, Administrative practice and procedures, Financial administration, Grant programs (Cooperative Agreements and Superfund State Contracts), Government procurement requirements, Property requirements, Reporting and recordkeeping requirements, Superfund.

40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Hazardous substances, Incorporation by reference, Intergovernmental relations, Natural resources, Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 30, 1994.

Carol M. Browner,

Administrator

PART 35—STATE AND LOCAL ASSISTANCE

1. The authority citation for part 35 continues to read as follows:

Authority: 42 U.S.C. 9601 *et seq.*

2. Section 35.6105 of subpart O is amended by revising paragraph (b)(5) to read as follows:

§ 35.6105 State-lead remedial Cooperative Agreements.

(b) * * *

(5) *Real property acquisition.* If EPA determines in the remedy selection process that an interest in real property must be acquired in order to conduct a response action, such acquisition may be funded under a Cooperative Agreement. EPA may acquire an interest in real estate for the purpose of conducting a remedial action only if the State provides assurance that it will accept transfer of such interest in accordance with 40 CFR 300.510(f). The State must provide this assurance even if it intends to transfer this interest to a third party. (See § 35.6400 of this subpart for additional information on real property acquisition requirements.)

* * * * *

3. Section 35.6400 of subpart O is amended by revising paragraphs (a)(1) and (2) to read as follows:

§ 35.6400 Acquisition and transfer of interest.

(a) * * *

(1) If the recipient acquires real property in order to conduct the response, the recipient with jurisdiction over the property must agree to hold the necessary property interest.

(2) If it is necessary for the Federal Government to acquire the interest in real estate to permit conduct of a remedial action, the acquisition may be made only if the State, or Indian Tribe to the extent of its legal authority, provides assurance that it will accept transfer of the acquired interest in accordance with 40 CFR 300.510(f). States and Indian Tribes must follow the requirements in §§ 35.6105(b)(5) and 35.6110(b)(2) respectively, of this subpart.

* * * * *

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657, 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Section 300.5 of subpart B is amended by revising the definition for On-scene Coordinator (OSC) to read as follows:

§ 300.5 Definitions.

* * * * *

On-scene Coordinator (OSC) means the Federal official predesignated by EPA or the USCG to coordinate and direct Federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal or other response actions under subpart E of the NCP.

* * * * *

3. Section 300.160 of subpart B is amended by revising paragraph (c) to read as follows:

§ 300.160 Documentation and cost recovery.

* * * * *

(c) Response actions undertaken by the participating agencies shall be carried out under existing programs and authorities when available. Federal agencies are to make resources available, expend funds, or participate in response to discharges and releases under their existing authority. Interagency agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a discharge or release. In cases where a Federal agency is asked to provide expert assistance for a response action, the ultimate decision as to the appropriateness of expending funds with respect to such assistance rests with the agency that is held accountable for such expenditures. Further funding provisions for discharges of oil are described in § 300.335.

* * * * *

4. Section 300.510 of subpart F is amended by revising paragraphs (c)(2) and (f) to read as follows:

§ 300.510 State assurances.

* * * * *

(c)(1) * * *

(2) After a joint EPA/State inspection of the implemented Fund-financed remedial action under § 300.515(g), EPA may share, for any extension period established in § 300.435(f)(2), in the cost of the operation of the remedy to ensure that the remedy is operational and functional. In the case of restoration of ground or surface water, EPA shall share in the cost of the State's operation of ground- or surface-water restoration remedial actions as specified in § 300.435(f)(3).

* * * * *

(f) EPA may determine that an interest in real property must be acquired in order to conduct a response action. However, as provided in CERCLA section 104(j)(2), EPA may acquire an interest in real estate in order to conduct a remedial action only if the State in which the interest to be acquired is located provides assurances, through a contract, cooperative agreement or otherwise, that the State will accept transfer of the interest upon completion of the remedial action. For purposes of this paragraph, "completion of the remedial action" is the point at which operation and maintenance (O&M) measures would be initiated pursuant to § 300.435(f). The State may accept a transfer of interest at an earlier point in time if agreed upon in writing by the State and EPA. Indian tribe assurances are to be provided as set out at 40 CFR part 35, subpart O, § 35.6110(b)(2).

[FR Doc. 94–17004 Filed 7–13–94; 8:45 am]

BILLING CODE: 6560–50–P

40 CFR Part 80

[AMS–FRL–5012–8]

Regulation of Fuels and Fuel Additives; Fuel Quality Regulations for Highway Diesel Fuel Sold in 1993 and Later Calendar Years; Interim Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: EPA regulations currently require that diesel fuel for use in motor vehicles ("on-highway") meet a sulfur content standard, as well as standards for cetane index or in the alternative for aromatic content, and be free of visible evidence of the blue dye, 1,4-dialkylamino-anthraquinone. This rule implements provisions to change the blue dye specified in EPA's regulations to the red dye solvent red 164. The use of dye solvent red 164 for high sulfur diesel would mitigate aviation safety concerns raised because of the use of blue dye in certain aviation gasoline. Based on the time needed for refiners and importers to obtain adequate supplies of dye solvent red 164 for diesel fuel and deplete current inventories of blue dye held by the oil industry, this rule provides that after October 1, 1994 no refiner or importer shall add blue dye to off-highway diesel fuel. Until that date either blue or dye solvent red 164 could be used to dye high sulfur off-highway diesel fuel. Under this rule, downstream parties can continue to use existing supplies of blue dyed diesel fuel. This timing represents a balance between the need to address the safety issue as quickly as possible and provide a reasonable lead time for the affected industries to implement this change. This rule also provides requirements and defenses related to violations based on the presence of dye solvent red 164 in on-highway diesel fuel, including an exception for certain tax-exempt on-highway fuel dyed red pursuant to Internal Revenue Service (IRS) regulations. IRS regulations generally require tax-exempt high sulfur diesel fuel to be dyed blue. In a related rulemaking, and for similar reasons, the IRS is changing its regulations to call for the use of dye solvent red 164 instead of blue dye.

DATES: As discussed more fully herein, EPA is issuing this as an interim final rule effective July 14, 1994 except for § 80.29(c). The information requirements in 40 CFR 80.29(c) have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved

them and an announcement of effective date is published in the **Federal Register**. EPA will accept written comments on any appropriate changes to this rule up to 30 days from July 14, 1994.

ADDRESSES: Written comments on this rule should be submitted to Public Docket A–94–36 at the following address. Materials relevant to this rule change are also contained in Public Docket A–94–36, located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Paul N. Argyropoulos, Field Operations and Compliance Policy Branch, Field Operations and Support Division, U.S. Environmental Protection Agency, (202) 233–9004.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA regulations currently require that diesel fuel for use in motor vehicles ("on-highway") meet a sulfur content standard, as well as standards for cetane index or in the alternative for aromatic content, and be free of visible evidence of the blue dye, 1,4-dialkylamino-anthraquinone. These requirements apply at all points in the distribution system. The regulations also provide that diesel fuel which is free of visible evidence of the blue dye shall be considered available for use in motor vehicles and therefore subject to the low sulfur and other standards. Diesel fuel that is not for use in motor vehicles ("off-highway") is not subject to these standards, and the blue dye is typically added by the refiner or importer to differentiate it from the diesel fuel subject to the low-sulfur standard.

Aviation gasoline (avgas) is dyed to ensure that pilots, maintenance personnel, vendors and fuel handlers correctly service piston powered aircraft. Although red dye is also used, more than 90% of all avgas is dyed blue or green. Blue dyes now being injected into off-highway diesel fuels create fuels which may be similar in color to either blue or green avgas. The aviation community, through the Federal Aviation Administration (FAA), has raised concerns that the blue dyed diesel fuel might be confused with blue or green avgas, leading to aircraft misfueling and result in a serious aviation accident.

This rule is designed to quickly resolve the safety concerns regarding the potential misidentification of diesel fuel as avgas, based on the similar dye color used in these fuels. EPA's rule changes the dye used in the diesel fuel program from a blue color to a red color, and prohibits refiners and importers from producing diesel fuel with the use of the blue dye after October 1, 1994 in on-highway diesel fuel. However, under this rule, downstream parties can continue to use existing supplies of blue dyed diesel fuel. EPA believes this provides a reasonable time period to address the safety concern and for industry to obtain dye solvent red 164 and draw down supplies of blue dye. The IRS is undertaking a similar rulemaking to change the color of dye used in tax-exempt high sulfur diesel fuel from blue to red. Since, under IRS regulations all fuel is dyed, some of which can be used on-highway, EPA's rule also contains an exception allowing the use of red dye in this small category of on-highway diesel fuel, if certain conditions are met.

EPA is taking this action after extensive discussion with the FAA, IRS, and the affected industries, including dye manufacturers. This rule reflects a reasonable balancing of the various interests involved, giving primary importance to the aviation safety issue. EPA invites comment on all issues raised by this rule, however, because of the critical safety issue involved, it is necessary to promulgate a final rule requiring the color change as quickly as possible and therefore without prior formal notice and comment. It is EPA's intention to expeditiously review all comments and determine whether it would be appropriate to make any change to this final rule.

II. Background

EPA published regulations concerning diesel fuel on August 21, 1990. 54 FR 35276. Under these regulations, beginning October 1, 1993, the sulfur content of on-highway diesel fuel could not exceed 0.05 wt. percent. EPA also specified standards for cetane index or aromatic content and required that on-highway diesel fuel be free of visible evidence of the blue dye 1,4-dialkylamino-anthraquinone. The standards established by EPA are designed to help control air pollution, especially particulate emissions from diesel motor vehicles and engines, and to coincide with EPA's heavy duty engine particulate standards which begin with the 1994 model year engines.

EPA's regulations do not require the dyeing of off-highway diesel fuel. Instead, all diesel fuel that is free of visible evidence of the blue dye is presumed to be available for use in motor vehicles and, therefore, subject to the sulfur content and other standards. Refiners and others routinely dye off-highway diesel fuel to identify it as such, and avoid being subject to the standards applicable to on-highway diesel fuel.

This program began in the fall of 1993, with the industry quickly achieving a high rate of compliance with all of the requirements. In early January 1994, EPA staff was contacted by individuals in the aviation community raising concerns that blue dyed diesel fuel might be mistaken for blue avgas, resulting in aircraft misfueling and a potentially serious aviation accident. This was identified as a particular concern in small and/or remote airfields where small aircraft operate and the handling procedures for fuel are less sophisticated or controlled. EPA was informed that the incident which triggered this concern occurred when a fuel handler on an airfield in Alaska encountered a delivery of blue fuels and claimed that he could not determine with any certainty which was diesel or avgas.

Concern over this issue escalated quickly and EPA and various segments of the aviation community, including the FAA, various aviation associations, several airlines, the Coordinating Research Council (CRC) of the American Society of Testing and Materials (ASTM) and others quickly began to investigate this matter. FAA issued a "Notice to Airmen" on January 7, 1994 and subsequent safety notice on January 11, 1994 to alert the aviation community to this concern. However, EPA, the FAA and others believed a more permanent solution was necessary.

The aviation industry has used dyes in aviation fuels since the early 1940's to ensure the proper fueling of aircraft. Aircraft engines are particularly sensitive to engine wear problems and performance requirements specified by the manufacturers and thus it is critical that the proper fuel be used at all times. Aviation gasolines are currently dyed red, green or blue, at relatively low concentrations, to distinguish grades by octane and other specifications. Blue avgas is the most predominant and widely used in the United States. In addition, the dyeing of avgas provides an obvious distinction from jet fuel which is clear kerosene type fuel and is often located in the proximity of avgas. Standard aircraft pre-flight procedures require a fuel color check to ensure proper fueling because of this particular sensitivity.

While there is no specific federal requirement for the dyeing of aviation fuel, industry practice is to follow the aviation fuel dye specifications in the ASTM Standard D 910. The ASTM standard specifies dye color and concentration and other critical aviation gasoline properties, including octane. Further requirements regarding fuels, transportation and storage apply under the National Fire Protection Association Standard 207.

Dyeing of certain motor vehicle fuels is a relatively common practice. In the United States, however, on-highway and off-highway diesel fuel have generally not been dyed, except for the limited use of specific dyes in certain premium diesel fuels by various segments of the industry. Diesel fuels are commonly dyed in other countries, including Canada. The term diesel fuel covers a relatively broad spectrum of fuels, with a wide range of base colors. For example, undyed diesel fuel may vary from clear to a brownish color with nearly every shade in between. EPA's regulations have led to widespread use of the blue dye in off-highway diesel fuel, comprising approximately one half of all diesel fuel. In addition, IRS regulations issued on November 30, 1993 (58 FR 63069) and subsequently amended December 27, 1993 (58 FR 68304) adopt EPA's blue dye requirement to identify tax-exempt high sulfur diesel. The IRS regulations specify minimum dye concentration levels in order to meet the additional purposes of the IRS tax program.

The tax exemption for diesel fuel applies primarily to off-highway fuel, but also includes a small segment of on-highway diesel fuel use such as for certain buses, vehicles operated by state and local governments and non-profit educational organizations. Tax exempt uses comprise approximately 5% of the total diesel fuel market. Only a portion of this fuel will be dyed where downstream facilities have installed and utilize dye injection equipment. Motor fuel highway tax must be paid on this on-highway diesel fuel unless it is dyed. Under the IRS regulations, this on-highway fuel may be dyed with the dye solvent red 164 at minimum specified concentrations. If sold undyed, taxes must be paid and the appropriate parties can apply for tax refunds.

The safety issue described earlier arises even though blue or green avgas may not look very similar to the majority of blue dyed diesel fuel. Some off-highway diesel fuels, including home heating oils, when dyed blue may look very similar to blue or green avgas. This diesel fuel may also be used in and around small airfields. The inadvertent mixing of diesel fuels with avgas is of particular concern since even small levels of contamination can cause aviation engine failures.

III. Discussion of EPA's Rule

EPA and other federal agencies have been examining various possible options to resolve the safety issue raised by the use of blue dye in diesel fuel. EPA and the other federal agencies considered whether the dye used in avgas should be changed given the much greater quantity of diesel fuel used annually than avgas. However, any change to the avgas colors was rejected since it is unlikely that the substantial understanding of fuel colors developed by pilots, fuel handlers, vendors and maintenance crews over nearly 50 years could be quickly undone without creating additional and possibly even greater safety risks. EPA and the other agencies, therefore, focused on the range of possible diesel fuel dye color changes.

EPA believes a dye should meet two significant criteria for use in its diesel fuel program. These are (1) Dyed diesel fuel should be clearly distinguishable from undyed fuel throughout the range of base colors found in diesel fuel, and (2) dyed diesel fuel must be clearly distinguishable from any of the avgas colors. IRS has an additional requirement that the dye must be discernible in diesel fuel when diluted by a factor of five with undyed diesel throughout the range of base diesel colors. This additional criteria is important to the purpose of the IRS program since potential tax evaders can realize significant illegal profits by mixing taxed and untaxed fuels in those proportions. EPA's regulatory program is structured differently. The requirement that on-highway diesel fuel be free of visible evidence of the dye applies not just to a single taxpayer, but to all persons in the distribution chain. This builds a strong incentive into the program to not mix dyed and un-dyed diesel fuel. Other issues of concern in choosing an appropriate dye include cost, health effects, equipment compatibility, pipeline concerns and availability to the public of the dye(s) to be selected. At the concentrations required to meet EPA's standard of "visible evidence" which is approximately one pound per thousand barrels, these concerns are not significant since industry has been using dyes in diesel fuels for some time at concentrations of approximately three pounds per thousand barrels without significant adverse effects in these areas.

EPA staff, other government officials, and industry experts have examined hundreds of dyed and undyed fuel samples. At several large meetings of industry and government personnel, diesel fuels dyed red, green and purple were studied in various concentration levels throughout the range of possible base colors. In addition, EPA and IRS field compliance personnel as well as aviation fuel users examined fuel samples from the perspective of each agency's program purposes. Industry experts provided further analyses of the colors and concentration options considered from the perspective of various industry concerns.

After considering all the evidence, EPA believes that red dye for high sulfur diesel fuel is the most appropriate for meeting the different agency concerns. It is easily distinguishable from undyed fuel, and from avgas at the concentrations that IRS requires. Purple was considered but rejected, because it was only distinguishable in very light base diesel fuel colors. At sufficient concentrations in darker base colors, purple creates significant routine product quality test problems for pipeline carriers. Green was also seriously considered, but was also rejected because it very closely resembled many of the undyed diesel fuels when diluted five times and is often too close in color to green avgas. The aviation community did not consider red to have the same problem at the concentrations considered since "red" avgas is actually pink and readily distinguishable from red dyed diesel fuel. The ASTM is currently preparing to rename red avgas pink. Since EPA's dye standard is based on the lack of "visible evidence", the dye requirement is easily met at relatively low concentrations.[1]

With respect to cost, EPA does not believe the change from blue to red dye would cause any significant increase in cost, given the amount that would be used and the comparative cost of the dyes. Based on industry information, the cost of the red dye as specified, dye solvent red 164, is slightly less than the blue at similar concentrations, it is non-proprietary and is currently available from both Morton International and United Color Manufacturing. Based on discussions with these manufacturers, EPA believes that October 1, 1994 is a feasible date by which adequate supplies of the red dye can be manufactured and distributed, and

[1] Under the current regulations for diesel fuel, refiners use approximately 1 lb of blue dye per 1000 barrels of diesel fuel. EPA expects that approximately the same amount of red dye would be used under this final regulation to show visible evidence of the red dye.

made ready for use in dyeing off-highway diesel fuel.

Similarly, EPA believes that an October 1, 1994 date for a changeover from blue to red dye will allow a reasonable period of time for refiners and others that use the blue dye to use up most, if not all, of their current inventory of blue dye. This is based on discussions with representatives of the oil industry. EPA does not expect that equipment compatibility will be a problem for the pipelines and others that transport and store diesel fuel based on the relatively low concentration needed to show visible evidence of the dye. Pipeline representatives have indicated their support for this belief at meetings on these issues. While EPA has not conducted testing of the effects of the dye solvent red 164 on boilers, furnaces, and other equipment that use off-highway diesel fuel, EPA is not aware of any indications that the red dye would cause problems, or would be any different in that regard than blue dye. Finally, with respect to health effects, EPA has preliminarily looked at this issue but has not reached any conclusion that dye solvent red 164 is either better or worse compared to the blue dye currently specified in EPA's regulations, or compared to other possible substitutes for blue dye.

It is worth noting that blue dyed diesel fuel will continue to be in existence in storage facilities at all levels significantly past the October 1, 1994 date even though refiners and importers are prohibited from adding blue dye to off-highway diesel fuel. Therefore, these regulations do not make downstream parties liable for the continued use of existing supplies of blue dyed diesel fuel nor the mixtures of blue and red that will result. This diesel fuel could remain available for off-highway use for a period of time and, therefore, presents some risk to aviation safety. However, EPA is not aware of any feasible way to remove the blue dyed diesel fuel from the distribution and storage system. This rule is therefore aimed not at removing already dyed diesel fuel from the system, but at changing the practice of dyeing diesel fuel blue and thereby preventing the creation of additional supplies of this fuel. The EPA and other federal agencies encourage the rapid depletion of existing supplies of blue dyed diesel and the use of dye solvent red 164 as soon as possible.

EPA believes this change over from blue to red dye as of October 1, 1994 is reasonable in light of all of the above factors. It quickly moves to address the safety issue, while recognizing the need for a reasonable period of time for refiners and importers to obtain supplies of dye solvent red 164 and draw down the inventory of blue dye. The red dye is considered the best choice as a substitute for blue dye, given the information EPA has available at this time regarding coloring characteristics, cost, equipment compatibility, non-proprietary nature of the dye and health effects.

The use of red dye for off-highway diesel fuel involves an additional concern for EPA with respect to that segment of on-highway diesel fuel that is tax-exempt and also dyed red under IRS regulations. EPA would prefer a unique color for the tax-exempt low sulfur fuel so as to retain a clear distinction from the dyed high sulfur as does various segments of the industry which supply and/or use this product under the IRS regulations. However, this is not feasible because, as discussed earlier, there was no other color that met all of the criteria adequately so as to meet the different agency requirements.

Under EPA's current regulations, on-highway diesel fuel for certain tax-exempt users must be free of visible evidence of blue dye, however, the IRS regulations allow for this fuel to be dyed red. As a result, EPA is providing a limited exemption that would allow this tax-exempt on-highway diesel fuel to be dyed red under certain conditions. Specifically, EPA will allow distributors to supply low sulfur on-highway diesel fuel that is dyed red if it meets the following conditions: (1) It must be provided for tax exempt use under IRS rules, (2) the diesel fuel must meet the standards for sulfur content and cetane index or aromatic content. In addition, supplier must provide transfer documents which certify that the fuel meets the applicable standards and the party receiving such fuel must retain these documents. Suppliers of red dyed diesel fuel for use in motor vehicles would have to provide and retain such transfer documents and suppliers and users of this fuel would also have to present such documents to establish a defense under the regulations if EPA discovers a violation. EPA does not believe that this creates a significant additional burden since bills of lading, invoices or some form of transfer document is already standard industry practice and this would merely require the additional designation on this documentation indicating the fuel meets EPA standards. In any case, a terminal has the option to either dye the on-highway diesel fuel red or in the alternative pay the required taxes and seek a refund. If regulated parties instead choose to dye the diesel fuel, or accept dyed diesel fuel for use in motor vehicles, and not pay the tax, the above requirements establish a reasonable structure that places the burden on the user or supplier to show the exception applies in their case.

IV. Environmental and Economic Impact

The environmental impact of this rule would not differ in any significant way from the current regulations. EPA expects that this rule change will provide a reasonable resolution to the aviation safety concerns caused by the use of blue dye in diesel fuel. Given the comparable cost of the two dyes, and the leadtime allowed to obtain supplies of dye solvent red 164 and draw down supplies of blue, EPA believes there is no significant economic impact associated with the use of red rather than blue dye. Since fuel suppliers already provide transfer documents to customers, it will require only a minimal additional effort to indicate on such invoices that the fuel meets EPA requirements. Therefore, EPA believes that there will also be no significant economic impact associated with that requirement.

V. Public Participation

EPA is issuing this final rule without prior notice and comment. This expedited rulemaking procedure is based on the need to act expeditiously to resolve the aviation safety risk caused by the presence of blue dyed diesel fuel and avgas. In support of this action, EPA has contacted and received detailed input from a significant number of interested parties, including other federal agencies. EPA believes these circumstances provide good cause under 5 U.S.C. 553(b) and CAA § 307(d)(1) to expedite this rulemaking. EPA finds that notice and comment procedures under § 307(d) are impracticable and contrary to the public interest based on these circumstances.

At the same time EPA is providing 30 days for submission of public comments. EPA will consider all written comments submitted in the allotted time period to determine if any change to this rule is necessary.

Any proprietary information being submitted for the Agency's consideration should be clearly distinguished from other submittals and clearly labeled "Confidential Business Information." Proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that it is not inadvertently placed in the docket. Information thus labeled and directed shall be covered by a claim of confidentiality and will be disclosed by

EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, it may be made available to the public without further notice to the submitter.

For the aviation safety reasons noted above, this rule is effective upon publication. EPA finds these circumstances provide good cause under 5 U.S.C. 553(d) for this expedited effective date.

VI. Statutory Authority

The authority for this action is sections 114, 211, and 301 of the Clean Air Act, as amended, 42 U.S.C. 7414, 7545, and 7601.

VII. Administrative Designation and Regulatory Analysis

A. Executive Order 12866

Pursuant to Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant action" because this rule might interfere with an action taken or planned by another agency. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, et seq., requires that federal agencies examine the effects of this proposal and identify significant adverse impacts of federal regulations on a substantial number of small entities. However, Section 605(b) of the RFA provides that an analysis is not required when the head of an agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Because the RFA does not provide concrete definitions of "small entity," "significant impact," or "substantial number," EPA has established guidelines setting the standards to be used in evaluating impacts on small businesses.[2] For purposes of this rule, a small entity is any business which is independently owned and operated and not dominant in its field as defined by SBA regulations under section 3 of the Small Business Act.

Pursuant to section 605(b) of the Regultory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects primarily petroleum refiners and suppliers of the required dye. While some of these parties may have existing inventories of blue dye after October 1, 1994, this rule will not adversely affect a significant number of small entities. However, EPA invites comment on the question of significant impacts on small entities.

C. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The information requirements are not effective until OMB approves them and a technical amendment is published in the **Federal Register**. A separate **Federal Register** notice will be published requesting comments on the information collection.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Diesel fuel, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

[2] U.S. Environmental Protection Agency, Memorandum to Assistant Administrators, "Compliance with the Regulatory Flexibility Act," EPA Office of Policy, Planning, and Evaluation, 1984. In addition, U.S. Environmental Protection Agency, Memorandum to Assistant Administrators, "Agency's Revised Guidelines for Implementing the Regulatory Flexibility Act," Office of Policy, Planning, and Evaluation, 1992.

Dated: July 7, 1994.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, EPA is amending part 80 of title 40 of the Code of Federal Regulations as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.29 is revised to read as follows:

§ 80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.*

(1) Beginning October 1, 1993, no person, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers, shall manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply or transport any diesel fuel for use in motor vehicles unless the diesel fuel:

(i) Has a sulfur percentage, by weight, no greater than 0.05 percent;

(ii)(A) Has a cetane index of at least 40; or

(B) Has a maximum aromatic content of 35 volume percent; and

(iii) Is free of visible evidence of:

(A) The dye 1,4-dialkylamino-anthraquinone; and

(B) Beginning October 1, 1994;

(*1*) The dye solvent red 164; unless

(*2*) It is used in a manner that is tax-exempt as defined under § 4082 of the Internal Revenue Code.

(2) In the case of any diesel fuel not intended for use in motor vehicles, no refiner or importer shall add or introduce any amount of the dye 1,4-dialkylamino-anthraquinone into such fuel beginning October 1, 1994.

(b) *Determination of compliance.* Any diesel fuel which does not show visible evidence of being dyed with either 1,4-dialkylamino-anthraquinone (which has a characteristic blue-green color in diesel fuel) or dye solvent red 164 (which has a characteristic red color in diesel fuel) shall be considered to be available for use in diesel motor vehicles and motor vehicle engines, and shall be subject to the prohibitions of paragraph (a) of this section. Compliance with the standards listed in paragraph (a) of this section shall be determined by use of one of the sampling methodologies specified in appendix G to this part.

(c) *Transfer documents.*

(1) Any person that transfers custody or title of diesel fuel for use in motor vehicles which contains visible evidence of the dye solvent red 164 shall provide documents to the transferee which state that such fuel meets the applicable standards for sulfur and cetane index or aromatic content under these regulations and is only for tax-exempt use in diesel motor vehicles as defined under § 4082 of the Internal Revenue Code.

(2) Any person that is the transferor or the transferee of diesel fuel for use in motor vehicles which contains visible evidence of the dye solvent red 164, shall retain the documents required under paragraph (c)(1) of this section for a period of five years from the date of transfer of such fuel and shall provide such documents to the Administrator or the Administrator's representative upon request.

(d) *Liability.* Liability for violations of paragraph (a)(1) of this section shall be determined according to the provisions of § 80.30. Any person that violates paragraphs (a)(2) or (c) of this section shall be liable for penalties in accordance with paragraph (e) of this section.

(e) *Penalties.* Penalties for violations of paragraphs (a) or (c) of this section shall be determined according to the provisions of § 80.5.

3. Section 80.30 is amended by adding paragraph (g)(7) as follows:

§ 80.30 Liability for violations of diesel fuel control and prohibitions.

* * * * *

(g) * * *

(7) In the case of any distributor or reseller that would be in violation under paragraph (e)(2) or (f)(2) of this section or any wholesale purchaser-consumer or retailer that would be in violation under paragraph (e)(1) or (f)(1) of this section for diesel fuel for use in motor vehicles which contains visible evidence of the dye solvent red 164, the distributor or reseller or wholesale purchaser-consumer or retailer shall not be deemed in violation if he can:

(i) Demonstrate that the violation was not caused by him or his employee or agent,

(ii) Demonstrate that the fuel has been supplied, offered for supply, transported or available for tax-exempt use as defined under § 4082 of the Internal Revenue Code, and

(iii) Provide evidence from the supplier in the form of documentation that the fuel met the applicable standards under paragraph (a)(1) of this section for sulfur and cetane index or aromatics content for use in motor vehicles.

[FR Doc. 94–17001 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7067

[NM–920–4210–06; NMNM 88049]

Withdrawal of National Forest System Land for the Guadalupe Canyon Zoological Botanical Area; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 3,980.08 acres of National Forest System land from mining for a period of 50 years to protect the unique flora and fauna and critical habitat for threatened and endangered plants and animals within the Guadalupe Canyon Zoological Botanical Area. Most of the land lies within the Bunk Robinson Wilderness Study Area.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, P.O.Box 27115, Santa Fe, New Mexico 87502, 505–438–7594.

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

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the unique flora and fauna and critical habitat for threatened and endangered plants and animals within the Guadalupe Canyon Zoological Botanical Area:

New Mexico Principal Meridian

Coronado National Forest

T. 33 S., R. 21 W.,
Sec. 17, SW¼NW¼, W½SW¼, and W½SE¼SW¼;
Sec. 18, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 20, W½NE¼NW¼, and W½W½;
Sec. 29, NW¼NW¼, S½NW¼, and SW¼;
Sec. 30, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 31, lots 1 to 4, inclusive, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 32, NE¼NW¼, and W½NW¼.
T. 33 S., R. 22 W.,
Sec. 24, NE¼NW¼, and S½SE¼;
Sec. 25, E½, E½E½NW¼, and E½NE¼SW¼;
Sec. 36, E½E½, NW¼NE¼, and SW½SE½.

The area described contains 3,980.08 acres in Hidalgo County.

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

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: July 1, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–17120 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–FB–P

43 CFR Public Land Order 7068

[MT–930–4210–06; MTM 40470 and MTM 60199]

Opening of Lands Under Section 24 of the Federal Power Act, in Executive Order Dated July 2, 1910, Which Established Powersite Reserve No. 9, and Executive Order Dated March 14, 1911, Which Established Powersite Reserve No. 177; Montana

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, 70.27 acres of public lands withdrawn by Executive orders which established the Bureau of Land Management's Powersite Reserve Nos. 9 and 177. This action will permit disposal of the lands through exchange and retain the power rights to the United States. The lands have been and will remain open to mining, under the provisions of the Mining Claims Rights Restoration Act of 1955, and to mineral leasing.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

By virtue of the authority vested in the Secretary of the Interior by Section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1988), and pursuant to the determination by the Federal Energy Regulatory Commission in DVMT–242, it is ordered as follows:

1. At 9 a.m. on July 29, 1994, the following described public lands withdrawn by Executive Order dated March 14, 1911, which established Powersite Reserve No. 177, will be opened to disposal by land exchange subject to the provisions of Section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission in determination DVMT–242, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Principal Meridian

T. 3 N., R. 2 E.,
Sec. 12, lots 6 and 7.

The area described contains 57.27 acres in Broadwater County.

2. At 9 a.m. on July 29, 1994, the following described public lands withdrawn by Executive Order dated July 2, 1910, which established Powersite Reserve No. 9, will be opened to disposal by land exchange subject to the provisions of Section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission in determination DVMT–242, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

Principal Meridian

T. 4 N., R. 2 E.,
Sec. 12, lot 6.

The area described contains 13 acres in Broadwater County.

3. The State of Montana was afforded timely notice to file an application for a reservation to the State for any lands required as a right-of-way for a highway, or as a source of materials for the construction and maintenance of such highways in accordance with the provisions of Section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1988).

Dated: July 1, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–17113 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–DN–P

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB83

Endangered and Threatened Wildlife and Plants; The Plant, Water Howellia (Howellia Aquatilis), Determined To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines *Howellia aquatilis* (water howellia) a wetlands plant, to be a threatened species. Populations of *H. aquatilis* are extant in Montana, Washington, and Idaho, but this aquatic plant has bee extirpated from California, Oregon, and some sites in Washington and Idaho. The species is threatened by loss of wetland habitat and habitat changes due to timber harvesting, livestock grazing, residential development, and competition by introduced plant species. Listing *H. aquatilis* will afford this species protection under the Endangered Species Act of 1973, as amended.

EFFECTIVE DATE: August 15, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Office of the Field Supervisor, U.S. Fish and Wildlife Service, Montana State Office, 100 North Park Avenue, Suite 320, Helena, Montana 59601.

FOR FURTHER INFORMATION CONTACT: Dale Harms at the above address (406/449–5225).

SUPPLEMENTARY INFORMATION:

Background

Howellia aquatilis (water howellia) is a monotypic genus in the bellflower family (Campanulaceae). The plant was first described by Grey in 1879 from specimens collected in Multnomah County near Portland, Oregon. Water howellia is described as an aquatic annual plant that grows 10–60 cm (4–24 in) in height. It has extensively branched, submerged or floating stems with narrow leaves 1–5 cm (0.4–2 in) in length. Two types of flowers are produced: small, inconspicuous flowers beneath the water's surface, and emergent white flowers 2–2.7 mm (0.08–0.11 in) in length. The plant is predominantly self-pollinating, and each fruit contains up to 5 large (2–4 mm; 0.08–1.6 in) brown seeds (Shelly and Moseley 1988).

Water howellia historically occurred over a large area of the Pacific Northwest region of the United States, but today the species is found only in specific habitats within the Pacific Northwest (Shelly and Moseley 1988; Gamon 1992). It has been reported from Mendocino County, California; Clackamas, Marion, and Multnomah Counties, Oregon; Mason, Thurston, Clark, and Spokane Counties, Washington; Kootenai and Latah Counties, Idaho; and Lake and Missoula Counties, Montana (Jokerst 1980; Shelly and Moseley 1988; Oregon Natural Heritage Program 1991; Gamon 1992). Distribution of howellia in eastern Washington, Idaho, and Montana is most likely related to the glacial history of these areas (Shelly and Moseley 1988; Gamon 1992). Populations in Oregon and in Clark County, Washington, occur within the floodplains of the lower Columbia and Willamette Rivers.

Howellia grows in firm consolidated clay and organic sediments that occur in wetlands associated with ephemeral glacial pothole ponds and former river oxbows (Shelly and Moseley 1988; Lesica 1992). These wetland habitats are filled by spring rains and snowmelt runoff; and depending on temperature and precipitation, exhibit some drying during the growing season. This plant's microhabitats include shallow water, and the edges of deep ponds that are partially surrounded by deciduous trees (Shelly and Moseley 1988; Gamon 1992; N. Curry, U.S. Fish and Wildlife Service, in litt., 1993).

Howellia reproduces entirely from seed and germination only occurs when ponds dry out and the seeds are exposed to air (Lesica 1990, 1992). The size of a population is affected by the extent of drying the previous growing season (Lesica 1992). Thus, populations vary in annual abundance (Lesica 1992; Roe and Shelly 1992), and exceedingly wet or dry seasons can have a detrimental effect on plant numbers the following year. The length of time seeds remain viable is unknown. However, seeds that remain in the soil longer than 8 months have shown decreased rates of germination and vigor (Lesica 1992).

Genetic variability in howellia populations is low throughout its range (Lesica et al. 1988). This suggests that all populations of howellia most likely represent a single, narrowly adapted genotype. This low rate of genetic variability within populations may explain why the species is restricted to a highly specific habitat.

Only seventy-nine small populations of this aquatic plant were known to exist when the proposed rule to list the species was published (58 FR 19795). Subsequent inventories conducted for howellia in the State of Washington

located 28 new sites in Spokane County alone, thus expanding the number of known populations to 107 (Roe and Shelly 1992; N. Curry, in litt., 1993; J. Gamon, Washington Natural Heritage Program in litt., 1993; R. Moseley, Idaho Conservation Data Center, in litt. 1993). In Montana, this aquatic plant has been found in only 13.5 percent of 437 potential habitats that have been surveyed since 1987 (Roe and Shelly 1992). Howellia appears to be extirpated from California and Oregon and from Mason, and Thurston Counties in Washington, and Kootenai County in Idaho (Jokerst 1980; Shelly and Moseley 1988; Oregon Natural Heritage Program 1991; Gamon 1992).

Nearly all of the remaining populations of howellia are clustered in two main population centers or metapopulations. Within these areas, individual populations occur primarily in clusters of closely adjacent ponds, although some ponds within the range of these metapopulations are unoccupied. One metapopulation near Spokane, Washington, consists of 46 individual populations in Spokane County, Washington, and one in Latah County, Idaho. A second metapopulation is found in the drainage of the Swan River in northwestern Montana (Lake and Missoula Counties), where 59 individual populations are found. In addition to metapopulations, a third site near Vancouver in southwestern Washington (Clark County) contains two small populations that are in close proximity of each other (Gamon 1992).

The large fluctuations in annual numbers, the low genetic variability, and habitat specificity indicates that isolated populations of howellia may be vulnerable to extirpation (Lesica 1992). However, the individual populations within the metapopulations appear interdependent, and may act as founders (Lesica 1992; S. Shelly, pers. comm., 1991). Most populations are extremely small. The fifty-nine populations found in Montana cover an area of only about 51 ha (127 acres). Of this area, one population occurs in a 12-ha (30-acre) pond, one in a 2-ha (5-acre) pond, one in a 1.6-ha (4-acre) pond, 4 in 1.2 ha (3 acres) of ponds, 24 in ponds of 0.4 to 0.8 ha (1 to 2 acres) in size, and the remaining 28 are in ponds of 0.4 ha (1 acre) or less (Shelly and Moseley 1988; Schassberger and Shelly 1991). The U.S. Forest Service (Forest Service) estimates total area of occupied and suitable unoccupied habitat on Forest Service lands to be less than 80 ha (200 acres) (J. Overbay, U.S. Forest Service, in litt., 1993).

Populations of howellia occur both on private and public lands. Of the 59 known populations in Montana, 21 (36 percent) are found on private lands, 34 (57 percent) occur on lands administered by the Forest Service, and 4 (7 percent) occur on a mixture of private and Forest Service lands (Schassberger and Shelly 1991). In Washington, 34 of the 47 populations (72 percent) are found on Service administered lands, 11 (24 percent) occur on private lands, 1 (2 percent) is on State land, and 1 (2 percent) is on Bureau of Land Management land (J. Gamon, in litt., 1993). The one population in Idaho occurs solely on private property (Shelly and Moseley 1988).

In the February 21, 1990, Notice of Review, the species was reclassified from a Category 2 to a Category 1 species because: (1) It has been extirpated from a large portion of its previously known range, (2) it has narrow ecological requirements, (3) it has a low degree of inter- and intrapopulation genetic variation, and (4) habitat alteration is presently continuing throughout a major portion of its range (Shelly and Moseley 1988).

On October 30, 1991, the Service was petitioned by the Biodiversity Legal Foundation to list howellia as an endangered species. A petition finding and proposed rule to list *H. aquatilis* as a threatened species without designating critical habitat was published in the April 16, 1993, **Federal Register** (58 FR 19795).

Summary of Comments and Recommendations

A proposed rule to list this aquatic plant was published on April 16, 1993 (58 FR 19795). In that rule, all interested parties were requested to submit any reports or information that might contribute to the development of a final rule. Newspaper notices inviting public comment were published in six different newspapers in Washington, Idaho, and Montana (from May 5 to May 7, 1993). The Service received 12 comments from 2 Federal and 3 State agencies, and 7 from private organizations, companies, and individuals. Ten comments were in support of the listing, one was opposed, and one did not state a position.

Comments pertinent to this rulemaking on whether *Howellia aquatilis* merits listing and if critical habitat should be designated are discussed in the following summary:

Issue 1: One individual representing a cattlemen's association opposed the listing of howellia due to the potential economic effects it may have on private landowners on whose property it is located, especially if this land is used for livestock grazing.

Response: The Service is required to evaluate five listing criteria in making a decision on whether a species should be listed as threatened or endangered. During this evaluation, the Service did determine that livestock grazing is a threat to the plant and its habitat. However, listing this species as threatened does not preclude livestock grazing by private landowners on their property.

Issue 2: Two individuals believe that critical habitat should be designated since it would protect the mosaic of ponds necessary for the long-term survival of howellia.

Response: The Service finds that designation of critical habitat is not prudent at this time. The Service is concerned that publication of site-specific maps of critical habitat might increase take and vandalism at these sites. Only federally authorized, permitted, or funded activities that would destroy or adversely modify critical habitat would be precluded if critical habitat were designated. The Service believes that section 7 consultation without critical habitat designation will sufficiently protect those populations that occur on Federal lands.

Summary of Factors Affecting the Species

The Service has determined that howellia should be listed as a threatened species based on a thorough review and consideration of all available information. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the act. These factors and their application to *Howellia aquatilis* (water howellia) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Howellia aquatilis has narrow ecological requirements and any subtle changes in its habitat could devastate a population. Any disturbance that alters the surface or subsurface hydrology of the habitat can negatively influence a population. Activities that affect the ecology of a wetland bottom habitat also may affect wetland succession and the survival of howellia populations.

Howellia aquatilis and its wetlands habitats are being threatened by *Phalaris arundinacea* (reed canary grass), a highly competitive, robust grass that invades wetlands. Reed canary grass has the potential to extirpate howellia

populations due to its ability to rapidly form dense monocultures, causing the decline of nearly all other plants in a wetland (Apfelbaum and Sams 1987). This exotic grass accelerates the rate of wetland succession causing significant changes in substrate and water table levels (Gamon 1992).

Both native and exotic varieties of this grass occur in North America and it is not known whether the variety that occurs in wetlands within the range of howellia is native or exotic (Lackschewitz 1991; L. Kunze, Washington Natural Heritage Program, pers. comm., 1993). However, due to the pernicious characteristic of the invasions, and the lack of historical records of its presence in this region, some ecologists in the Pacific northwest believe this invasive variety of *P. arundinacea* is an exotic form that was introduced by humans (L. Kunze, pers. comm, 1993; S. Vrilakas, Oregon Natural Heritage Program, pers. comm., 1993).

Howellia is most abundant in areas with little or no other aquatic vegetation, since it does not compete well with other plants (Gamon 1992). Howellia has been observed growing amongst reed canary grass stands, but only where these stands are sparse or in openings (N. Curry, in litt., 1993). Reed canary grass is considered a major threat to howellia in the State of Washington since it occurs in 83 percent of the ponds where howellia is present. This exotic also threatens the howellia population in Idaho since it is present in nearby ponds (R. Moseley, in litt., 1993). Reed canary grass has also been found in several of the Montana ponds occupied by howellia (Shelly and Moseley 1988).

Lythrum salicaria (purple loosestrife), another aggressive exotic plant, also poses a threat to howellia (Gamon, in litt., 1993), because it can out-compete and eliminate other aquatic plants (West 1990). Purple loosestrife is present in Lake County, Montana, and also in the immediate vicinity of the Spokane howellia metapopulation (West 1990; N. Curry, pers. comm., 1993).

Impacts associated with timber harvest also pose a threat to *H. aquatilis* populations. Of the 59 populations of howellia in the Swan Valley, Montana, 22 (37 percent) occur within areas where logging has occurred around the wetland margins (Shelly and Moseley 1988). In Montana, 58 percent of the populations of howellia occur on Forest Service lands, and an additional 7 percent occur on lands partially owned by the Forest Service (Schassberger and Shelly 1991). Thirty-eight percent of the private lands in Montana where howellia occurs are owned by the Plum Creek Timber Company (Shelly and Moseley 1988). Timber harvest has been increasing within the area of the Spokane metapopulation (Gamon 1992).

The removal of trees from around ponds may cause an increase in water temperatures and evaporation, thus increasing wetland drying and influencing plant succession. Increased siltation occurs in wetlands where logging or associated road building and maintenance is conducted, also impacting bottom substrates and the vegetational composition of the sites. Water howellia occurs most frequently in ponds with firm, consolidated organic clay bottom sediments. It also is found in more open areas within these ponds. An increase in bottom sedimentation and subsequent competition from other vegetation could have an adverse effect on *H. aquatilis* populations.

Livestock, by their grazing and trampling, can also adversely affect howellia populations due to the disturbance of shorelines and associated vegetation. Trampling of bottom sediments adversely affects the seed bank and the consolidated substrate which appears to be necessary for germination. Additionally, livestock waste increases nutrient loading in wetlands causing a change in the water quality that may alter pond vegetation composition. It is not known how much grazing impact can be tolerated by *H. aquatilis*, although the plant still exists in ponds that have been disturbed by grazing (N. Curry, pers. comm., 1993; B. Wiseman, Ridgefield National Wildlife Refuge, pers. comm., 1992). The timing, magnitude, and duration of grazing evidently influences the plant's ability to withstand grazing. The cumulative impacts of grazing and other human-induced disturbances threaten a number of populations.

The California population may have been eliminated by cattle grazing and trampling (Griggs and Dibble 1979), and two wetlands on private lands in Montana with populations of *H. aquatilis* have been heavily impacted by domestic livestock, especially horses (Shelly and Moseley 1988). In Washington, 23 percent of the populations occur on private lands (J. Gamon, pers. comm. 1991), many of which are subject to grazing. Additionally, grazing occurred on some of the lands administered by the Service until 1993 (N. Curry, pers. comm. 1993). In Spokane County, Washington, several of the ponds containing *H. aquatilis* have been significantly altered by past and current grazing practices.

Sites where howellia was historically found in Oregon have been converted to urban areas, and an increase in residential development is occurring in the Spokane metapopulation area (Gamon 1992). Additionally, the construction of dams along the Columbia and Willamette Rivers has led to a loss of suitable wetland habitats (Shelly and Moseley 1988; Gamon 1992). Many wetlands within the historic range of *H. aquatilis* have been drained, filled, or excavated for other uses (Gamon 1992).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization for commercial, recreational, scientific, or educational purposes is presently not a threat to *H. aquatilis*. However, listing the species due to its taxonomic status as a monotypic genus may generate increased public interest. The Service has not designated critical habitat because the publication of precise maps and descriptions of critical habitat in the **Federal Register** could lead to increased take and vandalism (Gamon 1992).

C. Disease or Predation

Howellia aquatilis may be subject to foraging by native and domestic animals, but it was found that domestic livestock do not feed on *H. aquatilis* in Idaho (Shelly and Moseley 1988). Incidence of disease is not known.

D. The Inadequacy of Existing Regulatory Mechanisms

Some protection already exists for this species since it is contained on the U.S. Forest Service's list of sensitive species for the Pacific Northwest region. A sensitive species designation may help control the use of the species and its habitat. Federal laws, such as the Clean Water Act and the Food Security Act, and some State laws protect wetlands. However, it is doubtful that these laws are adequate to protect howellia and its habitats. Populations that occur entirely on private lands receive no Federal protection.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The lack of genetic variation between populations of *H. aquatilis*, and its extremely specialized habitat requirements add to the vulnerability of the species. Because of its low genetic variability, howellia may be less able to adapt to abrupt environmental changes (Lesica et al. 1988). As a result, this species may be vulnerable to random

environmental events and/or habitat alterations.

Short- and long-term climatic changes could affect *H. aquatilis* by influencing the drying patterns of wetlands. Successive years of exceedingly wet or dry weather are expected to cause declines or even extirpation of some of the populations. Long-term climatic changes could also cause these shallow wetlands to dry up, ultimately causing expiration of the species.

Natural wetland succession due to sediment deposition may in turn affect the existing plant community. This natural succession could cause the extirpation of *H. aquatilis* populations (Jokerst 1980; Shelly and Moseley 1988; Gamon 1992).

The Service has assessed the best scientific and commercial information available regarding past, present, and future threats to this species in determining to publish this rule final. Based on this evaluation, the preferred action is to list *Howellia aquatilis* (water howellia) as a threatened species. The Service has determined that, although it is not in immediate danger of extinction, howellia is likely to become an endangered species in the foreseeable future if the present threats and declines continue.

Howellia has been extirpated from over one-third of its known range (Shelly and Moseley 1988). Although additional populations of this plant have recently been discovered, the Service does not believe that the overall status of the species has changed as a result of these recent discoveries. Nearly all known howellia populations are clustered within two areas of the northwestern United States, and these populations exhibit little genetic variation between or among populations. This highly specialized aquatic is vulnerable to both natural and human disturbances which if continued, will lead to its eventual extinction. For the reasons given below, it is not prudent to designate critical habitat for howellia at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is presently not prudent for the species because it could lead to increased take and vandalism. Publication of precise maps and descriptions of critical habitat in the **Federal Register** would likely contribute to vandalism of the species or its habitat (Gamon 1992).

The proper Federal, State, and local agencies have been notified of the locations and management needs of this plant. Landowners have been notified of the location and importance of protecting habitat of this species. Protection of its habitat will be addressed through the recovery process and through the section 7 consultation process. The Service believes that Federal involvement can be effective without the designation of critical habitat and finds that designation of critical habitat for this plant is not prudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Listing encourages conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with States and requires that recovery actions be carried out for all listed species. The protection required of Federal Agencies and the prohibitions against certain activities involving listed species are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal Agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal Agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal Agency must enter into formal consultation with the Service.

In the case of howellia, Federal activities that might be affected by listing this plant as threatened include timber harvest, livestock grazing, road construction, and filling of wetlands. Such Federal activities may be subject to section 7 review.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 for threatened species set forth a series of general prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person, subject to the jurisdiction of the United States, to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale, this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. In some instances permits may be issued for a specified time to relieve undue economic hardship. The Service anticipates that few trade permits would ever be sought or issued because *H. aquatilis* is not utilized in trade. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 432, Arlington, Virginia, 22203–3507 (703/358–2104).

National Environmental Policy Act

The Service has determined that listing actions pursuant to section 4(a) of the Endangered Species Act of 1973, as amended, do not require an Environmental Assessment as defined under the authority of the National Environmental Policy Act of 1969. A notice outlining the Service's reasons for this determination was published in the October 25, 1983 **Federal Register** (48 FR 49244).

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West, B. 1990. We've got trouble right here in River City. Proceeding of the 28th Annual Meeting of the Montana Chapter of The Wildlife Society, Lewiston (Abstract).

Author

The primary author of this proposed rule is Lori H. Nordstrom, Montana State Office (See **ADDRESSES** section). Harold M. Tyus, Denver Regional Office, U.S. Fish and Wildlife Service, Denver, Colorado served as editor.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. § 17.12(h) is amended by adding the following, in alphabetical order under Campanulaceae—Bellflower family, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	*
Campanulaceae—Bellflower family:						
*	*	*	*	*	*	*
Howellia aquatilis	Water howellia	U.S.A. (MT, ID, WA, OR, CA).	T		NA	NA
*	*	*	*	*	*	*

Dated: June 30, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–17134 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 931056–4173; I.D. 092093D]

RIN 0648–AG07

Taking and Importing of Marine Mammals; Yellowfin Tuna Purse Seine Fishing

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to codify the definition of "import" as used in the regulations restricting imports into the United States of yellowfin tuna and certain other fish and fish products for purposes of limiting mortality to marine mammals taken during commercial fishing operations. The definition clarifies that a fish importation occurs under the Marine Mammal Protection Act (MMPA), when fish or fish products are released for entry into a nation by that nation's customs authority, and not simply upon physical entry into its territory.

EFFECTIVE DATE: August 15, 1994.

FOR FURTHER INFORMATION CONTACT: LT Dana S. Wilkes, NOAA, (310) 980–4000, FAX (310) 980–4047.

SUPPLEMENTARY INFORMATION:

Background

The proposed rule (58 FR 59007, November 5, 1993) provided background as to why NMFS considers it useful to codify the definition of "import". The definition of "import" is relevant both to shipments into the United States, and to shipments from one foreign nation to another. Although previous regulations have not defined "import", NMFS determined that tuna and tuna products that were transshipped through a nation without being released from the customs custody of that nation, would not be considered as having been imported by that nation. In other words, a fish or fish product is not "imported" until it is released for entry by a nation's customs authorities.

No comments were received on the proposed rule. Accordingly, it is adopted as final with only minor editorial changes.

Classification

The General Counsel of the Department of Commerce certified to the Small Business Administration that

this rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 216

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

Dated: July 7, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

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

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

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

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

2. In § 216.3, a new definition of "import" is added in alphabetical order to read as follows:

§ 216.3 Definitions.

* * * * *

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the Customs laws of the United States; except that, for the purpose of any ban issued under 16 U.S.C. 1371(a)(2) on the importation of fish or fish products, the definition of "import" in § 216.24(e)(1)(ii) shall apply.

* * * * *

3. In § 216.24, paragraph (e)(1) is redesignated as paragraph (e)(1)(i), and a new paragraph (e)(1)(ii) is added to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) * * *

(1)(i) * * *

(ii) For purposes of this paragraph (e), and in applying the definition of an "intermediary nation", an import occurs when the fish or fish product is released from a nation's Customs' custody and enters into the territory of the nation. For other purposes, "import" is defined in § 216.3.

* * * * *

[FR Doc. 94–17066 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–22–W

Proposed Rules

Federal Register
Vol. 59, No. 134
Thursday, July 14, 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.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS 1654–94]

RIN 1115–AD66

Temporary Alien Workers Seeking H Classification for the Purpose of Obtaining Graduate Medical Education or Training

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations with regards to the treatment of certain foreign medical graduates seeking nonimmigrant classification under the H–1B classification as amended by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA). This rule will prohibit a foreign medical graduate from seeking H–1B classification for the purpose of taking a medical residency in the United States. It will also modify the eligibility standards for foreign medical graduates and clarify for businesses and the general public the requirements for medical graduates' classification and admission.

DATES: Written comments must be submitted on or before September 12, 1994.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5307, Washington, DC 20536. To ensure proper handling please reference the INS number 1654–94 on your correspondence.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Senior Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7215, Washington, DC 20536, telephone (202) 514–3240.

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Immigration Act of 1990 (IMMACT), Public Law 101–649, with certain limited exceptions, graduates of foreign medical schools seeking to come to the United States to perform services in the medical professions could obtain H–1B classification only if they were coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency to teach or conduct research, or both, at or for such an institution or agency. This requirement was deleted by Public Law 101–649 which allowed for the admission of foreign medical graduates under the H–1B nonimmigrant classification to perform any and all services, including direct patient care, in the medical professions.

The Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Public Law 102–232, December 12, 1991, established, among other things, new criteria for the admission of foreign educated physicians coming to the United States to perform services in the medical professions. Public Law 102–232 amended section 212(j)(2) of the Act to provide that these aliens could obtain H–1B classification in either of two ways as follows:

First, (mirroring the pre-IMMACT language), an alien can be accorded H–1B classification if the alien is coming to the United States pursuant to an invitation from a public or nonprofit private educational or research institution or agency to teach or conduct research, or both, at or for such institution or agency.

Second, an alien may be accorded H–1B classification if he or she has passed the Federation Licensing Examination (FLEX) or an equivalent examination as determined by the Secretary of Health and Human Services. Eligibility under this criterion also requires a demonstration that the alien has competency in oral and written English or that the alien has graduated from a school of medicine accredited by a body or bodies approved for that purpose by the Secretary of Education.

Since the enactment of MTINA, a number of questions have been raised concerning the legality of graduates of foreign medical schools taking graduate medical education or training, also known as residencies or internships, as H–1B nonimmigrant aliens. It has been argued that a medical residency constitutes "services in the medical professions" since a portion of the residency involves providing direct patient care. It has also been argued that a medical residency meets the definition of the term "specialty occupation" as contained in section 214(i)(1) of the Act since the position requires the theoretical and practical application of a body of highly specialized knowledge, and a bachelor's or higher degree in the specific specialty is a minimum requirement for entry into the occupation.

It is the opinion of the Service that Congress did not intend the H–1B nonimmigrant classification to be utilized by graduates of foreign medical schools coming to the United States to undertake medical residencies or otherwise receive graduate medical education or training. The Service believes that graduates of medical schools coming to the United States to take medical residencies or otherwise receive graduate medical education or training must seek classification as J–1 nonimmigrant aliens.

The rationale behind this opinion requires an examination of the prior legislation in this area. Congress enacted the Health Professionals Education Assistance Act of 1976 (HPEAA), Public Law 94–484, in response to a number of problems with foreign medical graduates in the United States. This legislation established the J–1 classification as the sole vehicle for graduates of medical schools to obtain graduate medical education or training in the United States, which clearly includes medical residencies. See sections 101(a)(15)(J) and 212(j)(1) of the Act; see also pre-IMMACT section 101(a)(15)(H)(i) of the Act. Section 212(j)(1) of the Act describes the various requirements for foreign medical graduates coming to the United States to receive graduate medical education or training. Although sections 303(a)(5) (A) and (B) of MTINA provided an avenue for foreign medical graduates to enter the United States in H–1B status to perform services in the medical professions by amending sections 101(a)(15)(H)(i)(b) and 212(j)(2) of the Act, MTINA did not alter the

requirements for graduate medical education or training contained in section 212(j)(1) of the Act. It is our opinion that Congress would not place in juxtaposition two such clearly different statutory provisions as section 212(j)(1) and section 212(j)(2) of the Act if it intended the H–1B and J–1 classifications to overlap with respect to foreign medical graduates seeking graduate medical education or training.

Nothing in the legislative history of either IMMACT of MTINA indicates that Congress intended graduates of medical schools to obtain graduate medical education or training under the H–1B classification. In the absence of clear legislative language to the contrary, it is the opinion of the Service that graduates of foreign medical schools must utilize the J–1 classification to undertake medical residencies. Therefore, those aliens who were previously accorded H–1B classification in order to take a medical residency will be required to seek a change of nonimmigrant classification to that of the J–1 nonimmigrant alien.

This rule proposes to amend paragraph (h)(2)(ii) by removing the last two sentences of the paragraph. The change will allow a petitioner to file a single petition for multiple beneficiaries even when the beneficiaries on the petition will be applying for visas at more than one consulate or port-of-entry. Under the prior regulation, the Service required separate petitions for the beneficiaries where the aliens desired to apply for nonimmigrant visas at different consulates or where the alien beneficiaries were going to seek entry at more than one port-of-entry. This proposed revision will save petitioners the time and expense of filing multiple petitions for a group of aliens since, under the proposed rule, only a single petition will be required. The Service will, of course, notify each consular post or port-of-entry listed on the petition of the approval of the petition. The other requirements of the paragraph, *i.e.*, that the aliens will be performing the same service or receiving the same training, for the same period of time and in the same location, have not been changed.

This rule also proposes to amend paragraph (h)(13)(iv), which discusses the limitations on admission for H–2B and H–3 nonimmigrant aliens, by adding a sentence differentiating between an H–3 alien trainee and an H–3 participant in a "special education exchange visitor program." As contained in the previous regulation, any H–3 alien who had spent 18 months in the United States as an H or L nonimmigrant alien could not seek extension, change status, or be readmitted to the United States unless the alien had spent 6 months outside the United States. This paragraph is inconsistent with paragraph (h)(9)(iii)(D)(*1*) which provides that an H–3 petition for an alien trainee shall be valid for a period of two years.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that the rule will not have a significant economic impact on a substantial number of small entities. The regulation merely clarifies certain provisions of the MTINA relating to physicians desiring to take medical residencies in this country and modifies certain filing procedures for petitions to reduce filing fees.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed 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 rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will have no effect on family well-being.

List of Subjects in 8 CFR Part 214

Administrative practice and procedures, Aliens, Employment, Organization and functions (Government agencies).

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1221, 1281, 1282; 8 CFR part 2.

2. Section 214.2 is amended by:

a. Revising paragraph (h)(2)(ii);

b. Adding paragraph (h)(4)(viii)(D); and by

c. Revising paragraph (h)(13)(iv), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(ii) *Multiple beneficiaries.* More than one beneficiary may be included in an H–2A, H–2B, or H–3 petition if the beneficiaries will be performing the same service, or receiving the same training, for the same period of time, and in the same location.

* * * * *

(4) * * *

(viii) * * *

(D) *Aliens coming to the United States to receive graduate medical education or training.* Aliens coming to the United States to receive graduate medical education or training are not eligible for H–1B classification. Such aliens must seek classification pursuant to section 101(a)(15)(J) of the Act.

* * * * *

(13) * * *

(iv) *H–2B and H–3 limitation on admission.* An H–2B alien who has spent three years in the United States under section 101(a)(15) (H) and/or (L) of the Act; an H–3 alien participant in a special education program who has spent 18 months in the United States under section 101(a)(15) (H) and/or (L) of the Act; and an H–3 alien trainee who has spent 24 months in the United States under section 101(a)(15) (H) and/or (L) of the Act may not seek extension, change status, or be readmitted to the United States under section 101(a)(15) (H) and/or (L) of the Act unless the alien has resided and been physically present outside the United States for the immediate prior six months.

* * * * *

Dated: June 9, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–17009 Filed 7–13–94; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter 1

Regulatory Review

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Regulatory review.

SUMMARY: This document summarizes the major comments the FAA received in response to its notice requesting that the public identify regulations that it believes should be amended or eliminated to reduce undue regulatory burdens, consistent with the FAA's statutory safety, security, and other public interest responsibilities. The information is needed from the commenters to help the FAA respond to the Administration's direction to design regulations in the most effective manner to achieve their regulatory objective.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Christie, Director, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9677.

SUPPLEMENTARY INFORMATION: On January 10, 1994, the FAA published a request that the public identify regulations that it believes should be amended or eliminated to reduce undue regulatory burdens, if any, consistent with the FAA's statutory safety, security, and other public interest responsibilities. This notice responded to the recommendation of the 15-member National Commission to Ensure a Strong Competitive Airline Industry, the recommendations of the Vice President's National Performance Review, and DOT and FAA regulatory initiatives. The FAA also noted that it intends to use the responses to this request to facilitate the regulatory review I envisioned by Executive Order No. 12866, "Regulatory Planning and Review," (September 30, 1993). The order requires agencies periodically to review their existing significant regulations to determine whether any should be modified or eliminated to make the agency's regulatory program more effective and less burdensome.

The FAA requested that commenters focus their recommendations on up to three regulations they believe to be of primary concern—rather than catalogue all rules that they may view to be objectionable in some respects. This request was made to facilitate the development of a manageable overall proposal. Commenters also were asked to rank in priority order the regulations that the commenters believed the agency should address first. In addition, each submission was to include an explanation of: (1) How the identified regulatory requirement is burdensome; (2) how the requirement should be changed or deleted, including, where possible, suggested draft substitutes; (3) how a regulatory change would benefit the public; and (4) how a proposed regulatory change would provide an adequate level of safety, security, or environmental protection. The FAA also noted that specific economic information to support a reliable cost/benefit analysis of the proposed change would be of assistance.

The FAA received more than 400 comments from 184 commenters. The agency has completed its initial review of these comments and is considering each in the light of the agency's safety priorities. The appropriate FAA program office is preparing a response to each of these comments, and a comprehensive document containing the FAA's responses will be available to the public through an announcement in the **Federal Register** later this year.

The commenters represented:

- Air carriers, including professional trade associations.
- Air taxi/commercial operators, including professional trade associations.
- General aviation, including professional trade associations.
- Rotorcraft, including professional trade associations.
- Manufacturers.
- State transportation agencies/airport authorities.
- Repair facilities.
- Aviation-related businesses.
- Flight schools.
- Public interest group.
- Intergovernmental organization.
- Aviation foundation.
- Union.
- Individiduals.

Comments received addressed 40 parts of the Federal Aviation Regulations (FAR), 4 FAA Orders, 7 Notices of Proposed Rulemaking (NPRMs), 4 sections of Chapter 49 of the U.S. Code, 5 Advisory Circulars, 2 Special Federal Aviation Regulations (SFAR), the Airman's Information Manual, an Airworthiness Directive, an Action Notice, the Freedom of Information Act, and the Notices to Airmen (NOTAMs) System. The following Federal Aviation Regulations were addressed most frequently:

FAR Part

Part 11—General Rulemaking Procedures
Part 21—Certification Procedures for Products and Parts
Part 23—Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes
Part 25—Airworthiness Standards: Transport Category Airplanes
Part 43—Maintenance, Preventive Maintenance, Rebuilding and Alteration
Part 61—Certification: Pilots and Flight Instructors
Part 91—General Operating and Flight Rules
Part 107—Airport Security
Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft
Part 135—Air Taxi Operators and Commercial Operators

Following are the primary segments of the public whose comments reflected common themes, and the main issues they addressed:

Air Carriers

- *Aging Aircraft.* Commenters stated that regulations that have been proposed by the FAA to require aircraft operators to ensure that airworthiness requirements applicable to older aircraft continue to be met should be withdrawn or modified prior to implementation, and that air carriers should be permitted to develop their own specific programs for dealing with corrosion. Some commenters stated that the FAA has over-utilized Airworthiness Directives (ADs) to implement the aging aircraft program, and that such programs have become unduly broad and burdensome.
- *Airport security.* Commenters stated that regulations that limit access to certain secure areas of airports have proven much more costly to air carriers than the FAA had forecasted, and should be modified and standardized.
- *Drug testing.* Industry commenters asserted that random drug testing should be reduced to 10 percent of employees per year, rather than the current 50 percent.
- *Aircraft simulation.* Commenters addressed various aspects of simulator training and recommended revising part 121, Appendix H, Advanced Simulation Plan, to take into account advances in simulator sophistication and capability.

Air Taxi and Commercial Operators

- *Single-engine Instrument Flight Rules (IFR).* Commenters recommended eliminating the current prohibition of passenger-carrying operations in single-engine airplanes for compensation or hire under IFR conditions, particularly for turbine-powered aircraft.
- *Weather reports and forecasts.* Certain operators wanted more flexibility in evaluating weather conditions at destination airports prior to departure, and to expand the number of sources of approved weather reporting. The issue was raised by

helicopter operators, including air ambulance services, as well as by other certificate holders.

• *Maintenance.* Certain operators stated that pilots who have appropriate training but who are not certificated mechanics should be permitted to perform certain maintenance functions such as the reconfiguration of aircraft seating.

General Aviation

• *Medical certification requirements.* Commenters supported eliminating or relaxing medical certificate requirements for pilots whose pilot certificates currently require a third-class medical certificate. One common recommendation was to extend the duration of a third-class medical certificate from 2 years to 4 years.

• *Biennial flight review.* Commenters made a number of recommendations to eliminate the requirement for the biennial flight review, either for all pilots or for certain pilots based on their experience or the nature of their flight operations.

• *Aircraft annual inspections.* Commenters recommended several approaches to relaxing the current requirements for annual inspections, including extending the inspection requirement to every 2 years, particularly for aircraft not flown for compensation or hire.

• *Aircraft simulation.* Certain commenters disagreed with the FAA's interpretation requiring that a flight instructor certify training in flight simulation in order for a pilot to log that time.

Manufacturers

• *Emergency landing dynamic conditions.* Commenters requested that the FAA standardize its position regarding pass/fail criteria for transport category airplane seats. Commenters also requested modification to proposals and current regulations affecting emergency landing dynamic conditions criteria for airplane seats.

• *High intensity radiated fields (HIRF).* Commenters requested that the FAA modify the procedures for establishing requirements for HIRF and lightning effects to enable manufacturers to identify these requirements early in an aircraft certification program.

Airport/State Agencies

• *Airport Security.* Commenters stated that operators of small airports are particularly concerned about the costs of controlling access to areas identified as critical for security reasons. Commenters referred to what are described as excessive restrictions on public access at certain airport facilities, such as fixed base operators.

• *Airport aid.* Commenters requested better access to information on the FAA Airport Aid Program, changes in certain funding criteria, and greater consideration to costs of compliance with AC criteria.

• *Private pilot privileges and limitations.* Commenters requested that part 61 of the FAR be amended to permit the reimbursement of private pilots for fuel and oil expenses for search and rescue operations without requiring the pilots to have a commercial pilot certificate.

Certain issues were mentioned relatively prominently by more than one segment of the aviation community. These issues included the following:

• *Airworthiness Directives/Advisory Circulars.* Commenters cited costs associated with compliance with ACs (which are not mandatory) and ADs (which are regulatory). Commenters suggested treating certain issues through the regulatory process rather than through ACs, and also suggested modifications to the AD process, including compliance schedules.

• *Flight time limitations and rest requirements.* Commenters suggested changes to pilot requirements under part 135 and to requirements under part 121 applicable to supplemental air carriers.

• *Inoperative instruments and equipment/MEL.* Commenters cited restrictions affecting air carrier and small aircraft MELs and requested greater flexibility in operating aircraft with inoperative instruments and equipment that they described as non-essential.

• *Major repairs and alterations.* Commenters requested relief from various requirements of part 43, Appendix A, Major Alterations, Major Repairs, and Preventive Maintenance, as well as Appendix B, Recording of Major Repairs and Major Alterations.

Many issues in these areas are being addressed by the FAA in ongoing rulemaking initiatives. Other issues, such as the harmonization of American and European aircraft certification standards, currently are being addressed by the Aviation Rulemaking Advisory Committee (ARAC).

In addition, a number of commenters state that FAA's rulemaking process should be streamlined and that regulatory analysis and evaluation—the study of economic costs and benefits of proposed regulations or amendments—should be improved. The FAA is reviewing the rulemaking process and is examining several new methods for improving and speeding the rulemaking process. The FAA also continues to modify the ARAC process to make this approach to rulemaking more efficient and better able to meet its original objective of speeding the rulemaking process and expanding public involvement. The FAA Office of Aviation Policy, Plans, and Management Analysis, which conducts regulatory evaluations and analyses, is working with industry to improve methodologies for economic analysis. These efforts include finding means to obtain better cost data from industry, to improve the methodology used, and to improve communication between the FAA, DOT, and Congress on the costs and benefits of anticipated rulemaking projects. The FAA also is participating in a government-wide project to improve the use of regulatory cost and benefit analyses.

The FAA recognizes the value of evaluating current and proposed regulations in terms of safety and other benefits against their potential cost to the public. Public comment in response to NPRMs, as well as during the ARAC process, ensure that the FAA will receive public input on specific regulatory proposals. This regulatory review has afforded the FAA an opportunity to understand further the public's viewpoints and concerns about current and proposed regulations as well as the regulatory process. The FAA expects to complete its review of all comments received and make available a report responding to all comments within the next few months.

Issued in Washington, DC, on July 7, 1994.

Chris A. Christie,

Director, Office of Rulemaking.

[FR Doc. 94–17021 Filed 7–13–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94-ASW-2]

Proposed Alteration of Jet Routes; LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would realign five jet routes located in Louisiana. The New Orleans Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) will be decommissioned because the platform on which it is located is deteriorating. As a result, the Harvey, LA, (VORTAC) will be upgraded to a high class navigational aid and the five jet routes would be realigned to use the

Harvey, LA, VORTAC. This action would enhance air traffic procedures and accommodate concerns of airspace users.

DATES: Comments must be received on or before August 30, 1994

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Air Traffic Division, ASW-500
Docket No. 94-ASW-2,
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 5:00 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: 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:

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-ASW-2." 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 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 71 of the Federal Aviation Regulations (14 CFR part 71) to realign five jet routes located in Louisiana. The New Orleans VORTAC will be decommissioned because it is located on a platform which is deteriorating. As a result, Harvey VORTAC will be upgraded to a high class navigational aid and the five jet routes would be realigned to use the Harvey, LA, VORTAC. This action would enhance air traffic procedures and accommodate concerns of airspace users. 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 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 the 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 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-2 [Revised]
From Mission Bay, CA, via Imperial, CA; Bard, AZ; INT of the Bard 089 and Gila Bend, AZ, 261 radials; Gila Bend, Cochise, AZ; El Paso, TX; Fort Stockton, TX; Junction, TX; San Antonio, TX; Humble, TX; Lake Charles, LA; Semmes, AL; Crestview, FL; INT of the Crestview 091 and the Tallahassee, FL, 290 radials; Tallahassee, FL; to Taylor, FL.

* * * * *

J-31 [Revised]
From Leeville, LA; Harvey, LA; Meridian, MS; to Vulcan.

* * * * *

J-35 [Revised]
From McComb, MS; Leeville, LA; Sidon, MS; Memphis, TN;
Farmington, MO; St. Louis, MO; Capital, IL; Pontiac, IL;
Joliet, IL; to Northbrook, IL.

* * * * *

J-37 [Revised]
From Hobby, TX, via INT of the Hobby 084°T(081°M) and Harvey, LA, 265°T(263°M) radials; Harvey; Semmes, AL; Montgomery, AL; Spartanburg, SC; Lynchburg, VA; Gordonsville, VA; Brooke, VA; INT Brooke 067 and Coyle, NJ, 226 radials; to Coyle.
From Kennedy, NY; Kingston, NY; Albany, NY; Massena, NY, to the INT of the Massena 037 radial and the United States/Canadian Border.

* * * * *

J-58 [Revised]
From Oakland, CA, via Manteca, CA; Coaldale, NV; Wilson Creek, NV; Milford, UT; Farmington, NM; Las Vegas, NM; Amarillo, TX; Wichita Falls, TX; Dallas-Fort Worth, TX; Alexandria, LA; Harvey, LA; INT of Grand Isle, LA, 104 and Crestview, FL, 201 radials; INT of Grand Isle 104 and Sarasota, FL, 286 radials; Sarasota; Lee County, FL; to the INT Lee County 118 and Palm Beach, FL, 184 radials.

* * * * *

Issued in Washington, DC, on July 6, 1994

Harold W. Becker

Manager, Airspace-Rules and Aeronautical Information Division

[FR Doc. 94-17012 Filed 7-13-94, 8:45 am]

Billing Code 4910-13-F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing the receipt of revisions pertaining to a previously proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Utah's proposed rules pertain to Utah's general backfilling and grading requirements; previously and continuously mined areas; and approximate original contour (AOC). The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations, clarify ambiguities, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t. July 29, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 766–1486.

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, UT 84180–1203, Telephone: (801) 538–5340.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated November 12, 1993, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT–875). Utah submitted the proposed amendment in response to the required program amendments at 30 CFR 944.16 (a), (b), (c), and (d) and at its own initiative. The provisions of the Utah Administrative Rules (Utah Admin. R.) that Utah proposed to revise and add were: Utah Admin. R. 645–301–553.200, spoil and waste; Utah Admin. R. 645–301–553.252, refuse piles; Utah Admin. R. 645–301–553.500 to read, previously mined areas; Utah Admin. R. 645–301–553.520, continuously mined areas; Utah Admin. R. 645–301–553.523, applying the stability criteria of proposed Utah Admin. R. 645–301–553.523 to the AOC criteria at Utah Admin. R. 645–301–553.650; Utah Admin. R. 654–301–553.600 and .620, AOC variances for incomplete elimination of highwalls in previously mined areas or continuously mined areas; Utah Admin. R. 654–301–553.650 applying the stability requirements of Utah Admin. R. 645–301–553.523 and the AOC criteria of Utah Admin. R. 645–301–553.651 through .655 to retained highwalls; Utah Admin. R. 645–301–651, height restrictions for retained highwalls; Utah Admin. R. 645–301–553.652, the applicability date of Utah's AOC standards at Utah Admin. R. 645–301–553.651 through .655; Utah Admin. R. 645–301–553.653, the restoration of retained highwalls to cliff-type habitats required by the flora and fauna existing prior to mining; and Utah Admin. R. 645–301–553.654, compatibility of retained highwalls with both the approved postmining land use and the visual attributes of the area.

OSM announced receipt of the proposed amendment in the December 8, 1993, **Federal Register** (58 FR 64529), provided an opportunity for a public hearing of meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–879). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 7, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of Utah Admin. R. 645–301–553.110, backfilling and grading of disturbed areas; Utah Admin. R. 645–301–553.500 and .600, the organization of Utah's rules pertaining to retained highwalls; Utah Admin. R. 645–301–553.510 and .522, general backfilling and grading requirements; Utah Admin. R. 645–301–553.522, slope stability and drainage; Utah Admin. R. 645–301–553.500 and .523, stability criteria for retained highwalls; Utah Admin. R. 645–301–553.620, AOC variances; Utah Admin. R. 645–301–553.650, AOC and stability requirements for highwall retention; Utah Admin. R. 645–301–553.651, height and length of retained highwalls; Utah Admin. R. 645–301–553.652, the applicability date of Utah's AOC alternative; and various editorial comments concerning Utah Admin. R. 645–301–553.120, .631, .650, and .655. OSM notified Utah of the concerns by letter dated March 31, 1994 (administrative record No. UT–908).

Utah responded in a letter dated April 18, 1994, by requesting a meeting between the Utah Division of Oil, Gas and Mining (Division) and OSM for the purpose of addressing the issues set forth by OSM in the March 31, 1994, letter (administrative record No. UT–918). On May 12, 1994, an executive session between the Division and OSM was held at the Western Support Center in Denver, Colorado to discuss Utah's revised program amendment regarding highwall retention. Notice of the executive session was posted in the lobby of the Western Support Center (administrative record No. UT–925). A summary of the executive session was recorded by OSM and entered into the

administrative record (administrative record UT–942).

Utah responded to the concerns identified in OSM's March 31, 1994, letter and the issues discussed at the May 12, 1994, meeting in a letter dated June 28, 1994, by submitting the revised amendment that is the subject of this notice (administrative record No. UT–941).

Utah proposes revisions to Utah Admin. R. 645–100–200, concerning continuously mined areas; Utah Admin. R. 645–301–553 through 553.552, concerning general backfilling and grading requirements; Utah Admin. R. 645–301–553.600, concerning previously and continuously mined areas; and Utah Admin. R. 645–301–553.650, concerning Utah's AOC provisions.

Specifically, Utah proposes to revise Utah Admin. R. 645–100–200 by creating a definition of the term "continuously mined areas."

Utah proposes to revise Utah Admin. R. 645–301–553.100 by entitling the section "Disturbed areas."

With the intended purposes of clarification and program consistency, Utah proposes to revise Utah Admin. R. 645–301–553 through 553.552 by recodifying and grouping the general backfilling and grading requirements together.

Utah proposes to revise Utah Admin. R. 645–301–553.500 by entitling the section "Previously Mined Areas (PMA's), Continuously Mined Areas (CMA's) and Areas with remaining Highwalls Subject to the Approximate Original Contour (AOC) Provisions."

Utah proposes to revise Utah Admin. R. 645–301–553.510 by requiring that, in addition to remining operations on continuously mined and previously mined areas, remining operations on areas with remaining highwalls subject to the AOC provisions also comply with other cross-referenced program requirements.

Utah proposes to revise Utah Admin. R. 645–301–553.650 by recodifying it as Utah Admin. R. 645–301–553.600, entitling it as "Previously Mined Areas (PMA's) and Continuously Mined Areas (CMA's)," and separating and recodifying the existing requirements for highwall treatment on previously mined and continuously mined areas from treatment on other areas.

Utah proposes to create new section Utah Admin. R. 645–301–553.650, which addresses the requirements for highwall management under the Utah AOC provisions, and to separate and recodify the following existing requirements at Utah Admin. R. 645–301–553.650, .651, .652, .653, .654, and .655 as Utah Admin. R. 645–301–553.652, 553.652.100, 553.652.200, 553.652.300, 553.652.400, and 553.652.500.

Utah proposes to create new section Utah Admin. R. 645–301–553.651 to require that non-mountaintop removal mining operations on steep-slopes must be approved under Utah Admin. R. 645–301–553–270, and are subject to highwall management under the Utah AOC provisions.

Utah proposes to create new section Utah Admin. R. 645–301–553.653 to require that any mining and reclamation plan approved or permit issued by the Division after December 13, 1982, for the reclamation or reduction of highwalls resulting from coal mining will be subject to the current Utah Admin. R. 645–301–553 rules concerning general highwall provisions and backfilling and grading.

Throughout the revised amendment, Utah proposes to use the acronyms "CMA" for continuously mined areas and "PMA" for previously mined areas and, for purposes of clarification, avoids the use of the phrases "Highwall Remnant" and "Retained Highwall."

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Utah program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h) OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

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

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

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

assumptions for the counterpart Federal regulations.

V. List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 7, 1994.

Russel F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 94–17062 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 111

Revisions to Weight and Preparation Standards for Barcoded Letter Mail

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The U.S. Postal Service proposes to amend its regulations to increase temporarily the maximum weight of barcoded mailpieces acceptable at Barcoded letter rates for test purposes, subject to additional preparation standards.

DATES: Comments must be received on or before August 29, 1994.

ADDRESSES: Written comments should be directed to Manager, Customer Mail Preparation, USPS Headquarters, 475 L'Enfant Plaza SW, Washington, DC 20260–2401. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 5621 at the above address.

FOR FURTHER INFORMATION CONTACT: Anthony M. Pajunas, (202) 268–3669.

SUPPLEMENTARY INFORMATION: For a period of up to 1 year, the U.S. Postal Service (USPS) proposes conducting a live test of barcoded letters weighing between 3.0 and 3.3067 ounces (for third-class regular rate) and 3.0 and 3.3363 ounces (for first- and second-class and third-class nonprofit rate).

Since implementing the current Barcoded rates for letter-size mail in February 1991, the USPS has been engaged in reassessing the eligibility criteria for those rates in order to increase mailer participation in barcoding. Initially, the maximum weight for all automation-rate letters (ZIP+4 and Barcoded rates) was set at 2.5 ounces based on engineering tests. In response to mailer concerns that this weight limit presented a major barrier to mailer participation in the USPS barcoding program, the USPS and mailing industry representatives formed a working group to examine whether the 2.5-ounce weight limit could be relaxed. This issue was successfully resolved by increasing the maximum weight for Barcoded rate mailpieces to 3.0 ounces. (The limit for ZIP+4 rate mail remained at 2.5 ounces based on the different capabilities of the optical character reader (OCR) equipment used to process that mail.)

Recently, a segment of the third-class mailing industry has indicated that its participation in automation would increase if the weight limit for barcoded letters were raised once again. With the implementation of automated processing using a delivery point barcode, the USPS believes that now may be the time to explore new opportunities for both mailers and the USPS by which additional benefits may be derived from automation, because, in a delivery point barcode environment, it is essential that all non-carrier-route presort letter-size mail be barcoded as early in the processing stream as possible.

When the USPS moved to a mechanized environment for processing mail, it gained experience over a 20-year period in determining which types of mail could be efficiently processed on multiposition letter sorting machines (MPLSMs). Initially, heavier pieces were excluded from MPLSM processing, but as experience was gained with the equipment, modifications were adopted that allowed the equipment to process a larger percentage of letter-size mail. Similarly, the USPS believes that it may now have an opportunity to process more letter-size mail on automated equipment by including heavier letter-size mailpieces, even though the candidate volume is small.

Preliminary testing of pieces weighing between 3 and 4 ounces indicated that the USPS may benefit from raising the maximum weight for barcoded letters from 3.0 to 3.3 ounces. Currently, the majority of these heavier-weight pieces are processed on mechanization or manually and never receive a delivery point barcode. Thus, even though the processing of 3.3-ounce letter-size barcoded mail on barcode sorters resulted, when tested, in lower throughput on automation than with lighter pieces, the USPS believes that any decrease in barcode sorter efficiency will likely be offset by other processing gains due to moving this mail into the delivery point sequence (DPS) mailstream—thereby avoiding numerous handlings through mechanization, manual sorting, and manual carrier casing, that must now be incurred.

However, USPS preliminary testing also revealed that some additional preparation restrictions would need to be imposed on 3.3-ounce pieces for this mail to be handled effectively on automation. When these heavier barcoded pieces were tested, USPS barcode sorters were unable to read barcodes located in the lower right barcode clear zone because of distortion caused by the edge curvature of thicker pieces. Accordingly, pieces could only be processed effectively when the barcode was located in the address block.

In addition, USPS preliminary testing indicated a higher potential for damage to pieces weighing more than 3.0 ounces, particularly in the case of pieces with an open address window. Damage problems were magnified as the thickness of the piece increased. Based on these results, the USPS does not believe that it can effectively process barcoded pieces weighing over 3.0 ounces if they have open (i.e., uncovered) windows.

Finally, the USPS has concluded that, if pieces weighing more than 3.0 ounces are to be included in a Barcoded rate mailing, that mailing must be 100 percent delivery point barcoded because these heavier pieces cannot be processed on optical character readers to have barcodes applied.

Given the preliminary results described above, the USPS has determined that further testing of heavier barcoded pieces is warranted in hopes that it can eliminate or reduce the separate manual/mechanized letter stream that runs parallel to the delivery point barcode and carrier route presort mailstreams. To that end, the USPS proposes to examine the impacts on mail processing from heavier barcoded letters in a "live mail" environment, including the benefits of giving this mail to the carrier in delivery point sequence so that it does not require manual casing.

Accordingly, the USPS proposes to increase temporarily the maximum weight for Barcoded rate letter-size mailpieces from 3.0 to 3.3363 ounces (or 3.3067 ounces for pieces mailed at regular bulk third-class rates). Although the engineering tests suggested a maximum weight of 3.3 ounces, the USPS is setting the maximum weight for purposes of this test at 3.3363 ounces based on the current "break point" between nonprofit bulk third-class minimum per-piece rates and the two-part piece/pound rates. If the maximum weight were set at 3.3 ounces, a small amount of letter-size minimum per-piece rate mail would be excluded (by an almost immeasurable weight) from

the rates otherwise available to letter mail. To avoid the potential administrative complications of this situation, the "break point" was chosen as the maximum weight. For simplicity and consistency, the maximum weight for first- and second-class barcoded letter mail is also set at 3.3363 ounces. For regular bulk third-class rate letter mail only, the maximum is set at 3.3067 ounces, which is its "break point." The decision to align the maximum weight for barcoded mail with the "break point" at this time is based on the current proximity of the two values and the consequent opportunity to avoid an otherwise potentially burdensome and confusing administrative problem. If the proposed test or changes in the "break point" indicate that this alignment is not in the best interest of the USPS, the maximum weight will be adjusted accordingly.

In addition to meeting all other applicable Domestic Mail Manual (DMM) standards, barcoded mailpieces claimed at Barcoded rates, and that weigh between 3.0 and 3.3363 ounces, must:

(1) Be part of a mailing that is 100 percent delivery point barcoded.

(2) Bear barcodes placed in the address block.

(3) Be in envelopes that have no open windows.

(4) Not be bound or have stiff enclosures.

Upon adoption of this proposal as an interim rule, the USPS will initiate a test period of up to 1 year for processing heavy letters and evaluating the results of that test to determine whether permanent adoption of an increased weight for barcoded mail is in the best interests of the USPS and its affected customers.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the USPS invites comments on the following proposed revisions of the DMM, incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201-3219, 3403–3406, 3621, 3626, 5001.

2. Revise the Domestic Mail Manual as noted below:

C810 Letters and Cards

1.0 GENERAL DIMENSIONS

* * * * *

1.5 Barcoded

The weight of each piece in a Barcoded rate mailing must not exceed 3 ounces, except that until [6 months after the beginning of the test], the maximum weight is 3.3363 ounces (or 3.3067 ounces if mailed at regular bulk third-class rates).

1.6 Heavy Letter Mail

Heavy letter mail (pieces weighing more than 3 ounces) must be prepared in an envelope and must meet the additional barcoding standards in C840.

2.0 PROHIBITIONS

* * * * *

2.3 Heavy Letter Mail

Heavy letter mail (as defined in 1.6) may not be prepared as a self-mailer or bound or booklet-type mailpiece.

* * * * *

C840 Barcoded Mailpieces

* * * * *

2.0 BARCODE LOCATION

* * * * *

2.2 Letter-Size Barcoded Rate Mailings

Except for pieces subject to 2.3, pieces may bear a DPBC within either the address block or the barcode clear zone in the lower right corner of the address side. * * * [Renumber existing 2.3 through 2.10 as 2.4 through 2.11, respectively; add new 2.3, and revise renumbered 2.9, as follows:]

2.3 Heavy Letter Mail

Heavy letter mail (letter-size pieces weighing more than 3 ounces up to the maximum weight for barcoded pieces) must bear a DPBC in the address block, subject to 2.9.

* * * * *

2.9 Placement in Address Block

* * * * *

d. [Replace the last sentence with the following:] Address block windows on heavy letter mail (as defined in 2.3) must be covered; such windows may be covered on other mail. Covers for address block windows are subject to 6.3.

* * * * *

6.0 ADDITIONAL STANDARDS FOR WINDOWS (LETTER-SIZE MAIL)

* * * * *

6.2 Window Construction

Barcode windows must extend fully to the lower edge of the envelopes, must be of wraparound construction, and must be covered subject to 6.3.

6.3 Window Covers

Window covers must be a nontinted clear or transparent material (e.g., cellophane or polystyrene), whose edges are securely glued to the envelope, and that permits the barcode and its background, as viewed through the window material, to meet the reflectance standards in 4.0.

* * * * *

E144 Barcoded Rate (Letters and Cards)

1.0 BASIC STANDARDS

* * * * *

1.2 Rate Application

* * * * *

c. Meets the applicable standards in 1.3 through 1.8.

1.3 Barcode Window

A mailpiece weighing 3 ounces or less, meeting the standards in 1.1 and 1.2, but with a barcode window in the lower right corner, may be eligible for Barcoded rates only if the correct delivery point barcode appears through the window.

1.4 5-Digit Barcodes

Subject to 1.8, barcoded rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 1.1 and the standards for 5-digit barcodes in C840. * * *

1.5 ZIP+4 Barcodes

Subject to 1.8, barcoded rate mailings may include pieces with correct ZIP+4 barcodes if those pieces meet the standards in 1.1 and the standards for ZIP+4 barcodes in C840. * * *

1.6 85% Rule

Subject to 1.8, at least 85% of all pieces in a Barcoded rate mailing (regardless of presort or rate) must bear the correct delivery point barcode for the delivery address, as defined by the standards for address quality and coding accuracy in A950. * * *

* * * * *

1.8 100% Barcoding

Each piece must bear the correct delivery point barcode:

a. In 5-digit trays in a tray-based mailing under M814.

b. In 5-digit packages in a package-based mailing under M815 or M816.

c. In any mailing containing heavy letters (as defined in C810).

* * * * *

E244 Barcoded Discounts (Letter-Size Pieces)

1.0 BASIC STANDARDS

* * * * *

1.2 Rate Application

* * * * *

c. Meets the applicable standards in 1.3 through 1.8.

* * * * *

1.3 Barcode Window

A mailpiece weighing 3 ounces or less, meeting the standards in 1.1 and 1.2, but with a barcode window in the lower right corner, may be eligible for Barcoded rates only if the correct delivery point barcode appears through the window.

1.4 5-Digit Barcodes

Subject to 1.8, barcoded rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 1.1 and the standards for 5-digit barcodes in C840. * * *

1.5 ZIP+4 Barcodes

Subject to 1.8, barcoded rate mailings may include pieces with correct ZIP+4 barcodes if those pieces meet the standards in 1.1 and the standards for ZIP+4 barcodes in C840. * * *

1.6 85% Rule

Subject to 1.8, at least 85% of all pieces in a Barcoded rate mailing (regardless of presort or rate) must bear the correct delivery point barcode for the delivery address, as defined by the standards for address quality and coding accuracy in A950. * * *

* * * * *

1.8 100% Barcoding

Each piece must bear the correct delivery point barcode:

a. In 5-digit trays in a tray-based mailing under M814.

b. In 5-digit packages in a package-based mailing under M815 or M816.

c. In any mailing containing heavy letters (as defined in C810).

* * * * *

E344 Barcoded Discounts (Letter-Size Pieces)

1.0 BASIC STANDARDS

* * * * *

1.2 Rate Application

* * * * *

c. Meets the applicable standards in 1.3 through 1.8.

* * * * *

1.3 Barcode Window

A mailpiece weighing 3 ounces or less, meeting the standards in 1.1 and 1.2, but with a barcode window in the lower right corner, may be eligible for the Barcoded rates only if the correct delivery point barcode appears through the window.

1.4 5-Digit Barcodes

Subject to 1.8, barcoded rate mailings may include pieces with correct 5-digit barcodes if those pieces meet the standards in 1.1 and the standards for 5-digit barcodes in C840. * * *

1.5 ZIP+4 Barcodes

Subject to 1.8, barcoded rate mailings may include pieces with correct ZIP+4 barcodes if those pieces meet the standards in 1.1 and the standards for ZIP+4 barcodes in C840. * * *

1.6 85% Rule

Subject to 1.8, at least 85% of all pieces in a Barcoded rate mailing (regardless of presort or rate) must bear the correct delivery point barcode for the delivery address, as defined by the standards for address quality and coding accuracy in A950. * * *

* * * * *

1.8 100% Barcoding

Each piece must bear the correct delivery point barcode:

a. In 5-digit trays in a tray-based mailing under M814.

b. In 5-digit packages in a package-based mailing under M815 or M816.

c. In any mailing containing heavy letters (as defined in C810).

* * * * *

R100 First-Class Mail

* * * * *

[Revise the Summary of First-Class Rates chart as follows:]

Weight not over (ounces)	Presorted 3-digit barcoded	Presorted 5-digit barcoded
*	* * * *	* * *
4 [ounces]	$0.887 (Weight not to exceed 3.3363 ounces.)	$0.881 (Weight not to exceed 3.3363 ounces.)
*	* * * *	* * *

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94-17105 Filed 7-13-94; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO37-1-6290; FRL-5012-5]

Conditional Approval and Promulgation of Air Quality Implementation Plans; Colorado; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to conditionally approve a vehicle inspection and maintenance State Implementation Plan (SIP) revision based on the Governor's June 24, 1994 commitment to adopt final regulations for dealership self-testing within one year of the conditional approval. If this commitment is not met, the conditional approval will automatically convert to a disapproval. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in the Denver and Boulder urbanized areas,

including all or part of the Colorado counties of Adams, Arapahoe, Boulder, Denver County, Douglas, Jefferson. This action is being taken under Section 110 of the Clean Air Act.

DATES: Comments must be received on or before August 15, 1994.

ADDRESSES: Comments may be mailed to Mr. Douglas M. Skie at U.S. EPA Region 8, (8ART–AP), 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Mr. Scott P. Lee, at (303) 293–1887.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxide (NO_X) emissions. An important control measure to reduce these emissions is the implementation of a motor vehicle inspection and maintenance (I/M) program. Despite being subject to the most rigorous vehicle pollution control program in the world, cars and trucks still create about half of the ozone air pollution and nearly all of the carbon monoxide air pollution in United States cities, as well as toxic contaminants. Of all highway vehicles, passenger cars and light trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. They also emit substantial amounts of nitrogen oxides and air toxics. Although the U.S. has made progress in reducing emissions of these pollutants, total fleet emissions remain high. This is because the number of vehicle miles travelled on U.S. roads has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same two decades. Projections indicate that the steady growth in vehicle travel will continue. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve our air quality goals.

Today's cars are dependent on properly functioning emission control systems, to keep pollution levels low. Effective I/M programs can identify problem cars and ensure that cars are properly maintained. I/M produces emission reduction results soon after the program is put in place.

The Clean Air Act as amended in 1990 (the Act) requires that most polluted cities adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the population of the area. The moderate ozone nonattainment areas, plus marginal ozone areas with existing I/M programs, fall under the "basic" I/M requirements. Enhanced programs are required in serious, severe, and extreme ozone nonattainment areas with urbanized populations of 200,000 or more; CO areas that exceed a 12.7 parts per million (ppm) design value [1] with urbanized populations of 200,000 or more; and all metropolitan statistical areas with a population of 100,000 or more in the Northeast Ozone Transport Region.

"Basic" and "enhanced" I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" program employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired.

The Act requires states to make changes to improve existing I/M programs or to implement new ones for certain nonattainment areas. Section 182(a)(2)(B) of the Act directed EPA to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The Act further requires each area required to have an I/M program to incorporate this guidance into the SIP. Based on these requirements, EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950, codified at 40 Code of Federal Regulations (CFR) 51.350–51.373).

Under sections 182(c)(3), 187(a)(6) and 187(b)(1) of the Act, any area having a 1980 Bureau of Census-defined urbanized area population of 200,000 or more and either: (1) designated as serious or worse ozone nonattainment or (2) moderate or serious CO nonattainment area with design value greater than 12.7 ppm, shall implement enhanced I/M in the 1990 Census-defined urbanized area. The Act also established the ozone transport region (OTR) in the northeastern United States, which includes the States of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware and Maryland and Northern Virginia and the District of Columbia. Sections 182(c)(3) and 184(b)(1)(A) of the Act require the implementation of enhanced I/M programs in all metropolitan statistical areas (MSAs) located in the Ozone Transport Region which have a population of 100,000 or more people.

The Act requires basic I/M programs to be implemented in the 1990 Census-defined urbanized area of the following nonattainment areas: (1) any area which is classified as moderate ozone nonattainment and is not required to implement enhanced I/M or (2) any area outside the OTR that is classified as serious or worse ozone nonattainment or moderate or serious CO nonattainment with a design value greater than 12.7 ppm and having a 1990 Census-defined urbanized area population of less than 200,000. Any areas classified as marginal ozone nonattainment or moderate CO nonattainment with a design value of 12.7 ppm or less shall continue operating existing programs that are part of an approved SIP as of November 15, 1990 and shall update the program to meet the basic I/M requirements set forth in 40 CFR Parts 51.350–373.

The I/M regulation establishes minimum performance standards for basic and enhanced I/M programs, as well as requirements for the following: Network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standards; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification; public information and consumer protection; improving repair effectiveness; compliance with recall notices; on-road testing; SIP revisions; and implementation deadlines. The performance standard for basic I/M programs remains the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Clean Air Act. The performance standard for enhanced I/M programs is based on a high-technology test, known as IM240, for new technology vehicles (i.e., those with closed-loop control and,

[1] The air quality design value is estimated using EPA guidance. Generally, the fourth highest monitored value with 3 complete years of data is selected as the ozone design value because the standard allows one exceedance for each year. The highest of the second high monitored values with 2 complete years of data is selected as the carbon monoxide design value.

especially, fuel injected engines), including a transient loaded exhaust short test incorporating hydrocarbons (HC), CO and NO_x cutpoints, an evaporative system integrity (pressure) test and an evaporative system performance (purge) test.

II. Background

On January 14, 1994, and on June 24, 1994, the State of Colorado submitted its enhanced I/M SIP revision for the Denver and the Boulder urbanized areas. Public hearings were held on November 12, 1993, and December 16, 1993, for the January 14, 1994 SIP submittal, and are to be held on September 15, 1994, for the June 24, 1994, SIP submittal, as detailed in the Governor's June 24, 1994 letter.

The January 14, 1994, submittal included authorizing legislation (HB1340 adopted by the House and Senate and signed by the Governor); Colorado Air Quality Control Commission (AQCC) Regulation Number 11; Motor Vehicle Emissions Inspection Program, adopted and effective as an emergency rule December 16, 1993, and the SIP narrative with appendices entitled, "State of Colorado Motor Vehicle Emissions Inspection and Maintenance State Implementation Plan", adopted by the AQCC on November 12, 1993, and again on December 16, 1993, with no substantive changes. EPA reviewed the January 14, 1994, submittal and identified aspects which the State would need to address prior to EPA approval. EPA's primary concerns concentrated on: the need for the State to submit a final binding regulation to replace the since-lapsed, December 16, 1993, emergency rule; limiting dealers self-testing to non-consecutive test-cycles; and modeling reflecting the compliance commitments in the SIP narrative.

Governor Romer's June 24, 1994, submittal included a binding regulation adopted by the State on March 17, 1994, changes to the SIP narrative addressing EPA's comments, and proposed revisions to Regulation Number 11 limiting dealer self-testing, as adopted for public hearing on June 16, 1994. The Governor's submittal includes the State's anticipated schedule for the adoption of the proposed revisions to Regulation Number 11. EPA has interpreted the submittal of this anticipated schedule to represent a commitment by the State to adopt a regulation addressing dealer self-testing within one year of conditional approval of Colorado's I/M SIP.

The I/M SIP submittals provide for the implementation of an enhanced I/M program in the Denver-Boulder carbon monoxide nonattainment area beginning on January 1, 1995 in Adams, Arapahoe, Denver, Douglas, and Jefferson Counties. Boulder County will implement an enhanced I/M program beginning July 1, 1995. In these areas, Colorado will be implementing a test-only network which requires pre-1982 vehicles to be tested annually, and post-1981 vehicles to be tested on a biennial schedule. Colorado's program meets the requirements of EPA's performance standard and other requirements contained in the Federal I/M rule in the applicable urbanized areas. Testing will be overseen by Colorado Departments of Health and Revenue. Other aspects of the Colorado enhanced I/M program include: IM240 testing of 1982 and later light-duty vehicles and trucks and 2-speed idle/idle testing of pre-1982 vehicles and all heavy duty trucks; evaporative emission testing for 1975 and later model year vehicles; a test fee to ensure the State has adequate resources to implement the program; enforcement by registration denial and vehicle inspection stickers; a repair effectiveness program; contractual requirements for testing convenience; quality assurance; data collection; waiver provisions; reporting and record keeping requirements; test equipment and test procedure specifications; public information and consumer protection; inspector training and certification; penalties for inspector incompetence; and on-road testing program; and emission recall enforcement. An analysis of how the Colorado enhanced I/M program meets the Federal SIP requirements by section of the Federal I/M rule is provided below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992 **Federal Register** notice (57 FR 52950) or 40 CFR Parts 51.350–51.373.

III. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). Section 110(k)(4) of the Act authorizes EPA to approve plan revisions based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than one year after the date of conditional approval of the plan revision. Section 110(k)(4) further provides that any such conditional approval shall be treated as a disapproval if the State fails to comply with the commitment.

EPA proposes conditional approval of Colorado's enhanced I/M SIP based on the Governor's June 24, 1994 commitment to adopt final regulations limiting dealership self-testing to one inspection cycle within one year of the date of conditional approval. If this commitment is not met, the conditional approval will automatically convert to a disapproval.

IV. EPA's Analysis of the Colorado Enhanced I/M Program

As discussed above, sections 182(c)(3), 184(b)(1)(A), 187(a)(6) and 187(b)(1) of the Act require that states adopt and implement regulations for an enhanced I/M program in certain areas. The following sections of this notice summarize the requirements of the Federal I/M regulations and address whether the elements of the State's submittal comply with the Federal rule.

Applicability—40 CFR 51.350

Under the requirements of the Clean Air Act, an enhanced I/M program is required in the Denver urbanized area, which includes the following five counties: Adams, Arapahoe, Denver, Douglas and Jefferson. The State has included the implementation of an enhanced I/M program in Boulder County to ensure that high emitting vehicles commuting from Boulder County to the Denver metropolitan area are identified and repaired. Boulder County is part of the Denver-Boulder carbon monoxide nonattainment area, but is not required to implement enhanced I/M because it contains no urbanized area with a population greater than 200,000.

The State's submittal contains the legal authority and regulations establishing the program boundaries for enhanced I/M. The included population is adequate to meet the urbanized area coverage requirement under section 51.350 of the I/M rule and is approvable.

The Federal I/M regulation requires that the State program must stay effective until it is no longer necessary. The attainment date for the Denver-Boulder carbon monoxide nonattainment area is December 31, 1995. However, the AQCC adopted a CO SIP on June 16, 1994, to be submitted to EPA, that includes a request to reclassify the Denver-Boulder CO nonattainment area to serious, extending its attainment date to December 31, 2000. In either case, Colorado's legislation provides authority for the I/M program through December 31, 2001, which extends beyond the "moderate" or "serious" CO attainment deadlines set by the Act. EPA believes this legal authority is approvable.

Enhanced I/M Performance Standard—40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel parameters, and the following model enhanced I/M program parameters: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device checks, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the State's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. At the time of the Colorado submittal, the most current version was MOBILE5a. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. The Colorado submittal must meet the performance standard for CO only.

The Colorado submittal includes the following program design parameters:

Network type—Test-only
Test frequency—1982 and newer vehicles; biennial; 1981 and older vehicles: annual
Model year coverage—all excluding newest four model years
Vehicle type coverage—all light-duty and heavy-duty gasoline powered vehicles
Exhaust emission test type—1982 and newer light-duty vehicles: IM240; 1981 and older light-duty vehicles: 2-speed idle all heavy-duty vehicles: idle-test
Emission standards—20 grams per mile CO
Emission control device checks—oxygen sensor, air pump, catalyst, inlet restrictor
Evaporative system pressure check—1975 and newer
Evaporative system purge check—1982 and newer
Stringency (pre-1981 failure rate)—20%
Waiver rate (pre-1981/1981 and newer)—3% & 3%
Compliance rate—96.4%
Evaluation date(s)—January 1, 2001

The Colorado program design meets the enhanced I/M performance standard. The modeling analysis reflects no benefit from dealer and fleet self-testing and the four model year exemption. If more emissions are lost from the dealer self-testing provisions than expected, other aspects of the program will need to be strengthened to ensure that the enhanced performance standard target is still being met.

Network Type and Program Evaluation—40 CFR 51.353

Enhanced I/M programs shall be operated in a centralized test-only format, unless the State can demonstrate that a decentralized program is equally effective in achieving the enhanced I/M performance standard. The enhanced program shall include an ongoing evaluation to quantify the emission reduction benefits of the program and to determine if the program is meeting the requirements of the Act and the Federal I/M regulation. The SIP shall include details on the program evaluation and shall include a schedule for submittal of biennial evaluation reports, data from a state-monitored or state-administered mass emission test of at least 0.1% of the vehicles subject to inspection each year, description of the sampling methodology, the data collection and analysis system and the legal authority enabling the evaluation program.

The State legislative authority and the State I/M regulations provide for a test-only network. Colorado's enhanced I/M network consists of centralized contractor-run test-only facilities for 1982 and newer vehicles, and a decentralized test-only network of independently owned facilities serving 1981 and older vehicles. Legislation prohibits owners, operators, and employees of inspection facilities from engaging in motor vehicle repair, service, parts sales, or sale or lease of motor vehicles and from referring vehicle owners to particular providers of motor vehicle repair services. This decentralized test-only network design is acceptable under the "presumptive equivalency" provisions of the I/M rule, and meets EPA's performance standard. The submittal includes provisions for and a commitment to an ongoing program evaluation which will include the random selection of at least 0.1% of vehicles for IM240 testing throughout the year under carefully controlled conditions, overseen by the State, as well as a commitment to submit the analysis and reports required by the EPA rule.

Adequate Tools and Resources—40 CFR 51.354

The Federal regulation requires that states demonstrate that adequate funding of the program exists. A portion of the test fee or separately assessed per vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if demonstrated that the funding can be maintained. Reliance on funding from the state or local general fund is not acceptable unless doing otherwise would be a violation of the state's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The Colorado enhanced I/M program will be funded by fees assessed at the time of vehicle registration: a $1.50 fee per vehicle in the program area, which is dedicated funding for the enhanced I/M program; and an additional 50 cent fee per vehicle statewide, which may be used for the enhanced I/M program. Additional funding for the enhanced I/M program is generated from a 25 cent charge per emissions sticker supplied to inspection stations. Many of the resource requirements including remote sensing, quality assurance equipment, and technical and consumer assistance are to be supplied by the State's enhanced I/M contractor. The program includes 36 full-time equivalent (FTE) staff and 4 additional contractor staff for consumer and technician assistance. Covert audit vehicles are to be provided by the State Patrol. EPA believes that the State submittal meets the adequate tools and resources requirements set forth in the Federal I/M regulations.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme, how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program shall be designed to provide convenient service to the motorist by ensuring short wait times, short driving distances and regular testing hours.

The Colorado enhanced I/M regulation provides for a combination of annual and biennial testing based on the model year of the subject vehicle. Pre-1982 vehicles are required to be tested annually, while post-1981 vehicles are required to be inspected on a biennial schedule. The Colorado legislation and the State I/M regulation provide the legal authority to implement and enforce the test frequency as outlined. Regulation 11 specifies the assignment

of test dates in various scenarios that might otherwise lead to vehicles getting off schedule. The Colorado Request for Proposal, which is included in the SIP, specifies convenience factors including a maximum average wait time of 15 minutes and an absolute maximum of 40 minutes, with monitoring and penalties. The Colorado program provides sufficient evidence that convenient services will be provided to the motorist. The Colorado submittal meets the test frequency and convenience requirements of the Federal I/M regulations and is approvable.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles (LDV) and light duty trucks (LDT) up to 8,500 pounds gross vehicle weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Fleet vehicles may be inspected outside of the normal enhanced I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in independent, test-only facilities, according to the requirements of 40 CFR 51.353(a). Alternatively, fleet vehicles may be exempted under Section 51.356 of the rule, which allows for exemptions provided a demonstration is made that the performance standard will be met. Vehicles which are operated on Federal installations located within an enhanced I/M program area are to be tested, regardless of whether the vehicles are registered in the state or local enhanced I/M area.

The Federal I/M regulation requires the SIP to include a description of the number and types of vehicles to be covered by the program and a description of any special exemptions including the percentage and number of vehicles to be impacted.

The Colorado I/M legislation and regulation provide legal authority for the enforcement and implementation of a program that includes the coverage of all gasoline-powered LDV, LDT, and HDV greater than four model years old, which are registered or required to be registered in the enhanced I/M program area.

Colorado allows for fleet self-testing and claims no credit for these vehicles in the demonstration of compliance with the performance standard, i.e., for purposes of demonstrating compliance with the enhanced I/M performance standard and other I/M rule requirements, these fleet self-tested vehicles are considered exempt. These non-dealership fleet vehicles are required to be tested in the test-only network upon change of ownership. Fleet owners may arrange to have fleet vehicles tested in the test-only network if desired.

Similarly, Colorado's I/M legislation allows dealer vehicles to be tested by a non-independent third party (EPA considers this to be dealer-self testing), but claims no credit for self-tested dealership vehicles in the demonstration of compliance with the performance standard. Dealers may arrange to have their vehicles tested in the test-only network if desired. Because EPA's I/M Rule requires an independent third party to conduct dealer testing, EPA is conditionally approving Colorado's I/M SIP based the State's commitment to adopt regulations to prohibit dealerships from testing vehicles two test-cycles in a row. This will help prevent creative noncompliers from consistently escaping a test-only independent test. EPA has determined that this is sufficient to meet the goal of requiring independent third parties to conduct dealer testing. Changes to Colorado's I/M regulations were proposed for hearing, but have not yet been fully and finally adopted. The State has submitted to EPA a schedule for adoption of these regulations. EPA has interpreted this submission as a commitment to adopt the necessary changes within one year of conditional approval. Without this regulation change, or an alternative that addresses the economic incentives towards improper testing, such as a contract with protective mechanisms, the dealership self-testing provisions will not be approvable and final action to conditionally approve the SIP will convert to disapproval following the course of action described in the proposed action portion of this notice. For further discussion of the fleet and dealership self-testing issue, see "Emission Credits for Dealer and Fleet Self-Testing in Enhanced I/M Areas", Memorandum from Dick Wilson to the Air Division Directors, dated March 29, 1993, available in the docket.

Additionally, the State regulation provides a program exemption for farm vehicles and vehicles with two-stroke engines. These exemptions impact 0.79% of the subject fleet. The Colorado program meets the enhanced I/M performance standard, reflecting no emission reduction benefits from the exempted vehicles.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, finalized in April of 1994.

The State I/M regulation includes a description of the test procedure for transient (IM240), two speed idle, idle, evaporative system purge, evaporative system pressure testing, and for a visual emission control device inspection. These test procedures reference EPA-approved test procedures and guidance and are approvable. The State enhanced I/M regulation establishes HC, CO, CO_2 and NO_x maximum allowable exhaust standards for all test procedures for each applicable model year and vehicle type. The State commits to implementing EPA recommended exhaust standards at least on test-cycle prior to the evaluation year, no later than January 1, 1999. The State I/M regulation establishes evaporative purge and/or pressure test standards. EPA believes the purge and pressure standards are lenient, though recognizing that purge and pressure testing are not required as an element of the enhanced I/M program for the State of Colorado. Purge and pressure testing address evaporative hydrocarbon emission, while Colorado is only required to meet the carbon monoxide performance standard. The emission reductions for the purge and pressure test will be evaluated at some future date if the State chooses to include these measures as part of an ozone redesignation/maintenance plan.

Test Equipment—40 CFR 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The Federal I/M regulation requires that the State SIP submittal include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The State regulation and Request for Proposal (contained in the SIP submittal appendices) contain the written technical specifications for test equipment to be used in the program. The specifications require the use of

computerized test systems. The specifications also include performance features and functional characteristics of the computerized test systems which meet the Federal I/M regulations and are approvable.

Quality Control—40 CFR 51.359

Pursuant to the Federal I/M Rule, quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

The appendices of the State submittal contain procedures which describe and establish quality control measures for the emission measurement equipment, record keeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements. This portion of the State submittal complies with the quality control requirements set forth in the Federal I/M regulation and is approvable.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI), as compared to the CPI for 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician to be applicable towards the minimum repair expenditure. The Federal regulation allows for compliance via a diagnostic inspection in special circumstances. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that committed to in the SIP.

Colorado's legislation provides the necessary authority to issue waivers, set and adjust cost limits, and administer and enforce the waiver system. The Colorado legislation sets a $450 cost minimum and allows for an annual adjustment of the cost limit to reflect the change in the CPI, as compared to the CPI in 1989 in the enhanced I/M program. The regulation includes provisions which address waiver criteria and procedures, including cost limits, tampering and warranty related repairs, quality control and administration. Fleet and dealer-owned vehicles are not eligible to comply with the I/M requirements via certificates of waiver. These vehicles must be repaired to comply with the test requirements independent of cost, or registration will be denied. These provisions meet the Federal I/M regulations requirements and are approvable. The State regulation allows for compliance via diagnostic inspection and the policies and procedures outlined in the submittal meet Federal I/M regulations and are approvable. The State has set a maximum waiver rate of 3% for both pre-1981 and for 1981 and later vehicles and has described corrective actions to be taken if the waiver rate exceeds 3%. This waiver rate has been used in the performance standard modeling demonstration and is approvable. Thus, EPA has determined that the waiver provisions of the SIP are approvable.

Motorist Compliance Enforcement—40 CFR 51.361

The Federal regulation requires that motorist compliance shall be ensured through the denial of motor vehicle registration in enhanced I/M programs, unless an exception for use of an existing alternative is approved. The I/M rule requires the use of mandatory meaningful fines to deter motorist compliance and requires States to undertake activities limiting the loopholes available to motorists. The SIP submittal is to include a description of the enforcement process, legal authority to enforce compliance, and a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice.

Colorado's legislative authority and I/M regulation provide the legal authority to implement registration denial and sticker-based enforcement. The Colorado SIP commits to a compliance rate of 96.4%, as used in the performance standard modeling demonstration. Penalties for failure to comply with the program are described in the authorizing legislation and the Colorado Revised Statutes. Fines of up to $1,000 can be imposed in cases where motorists are involved in fraudulently obtaining certificates of compliance, stickers, or registrations. Failure to register a vehicle also results in significant penalties, as described in the Colorado Revised Statutes regarding registration penalties. The State of Colorado has met EPA's requirements for the imposition of mandatory fines. The State commits to corrective action if a compliance rate of 96.4% is not maintained in practice.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The Federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate, and enforce the program.

The Colorado I/M legislation, regulation, and SIP narrative and appendices describe how the enforcement program oversight is quality controlled and quality assured and includes the establishment of an information management system. The enforcement program oversight activities included in the submittal meet the Federal I/M regulation requirements and are approvable.

Quality Assurance—40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all state I/M enforcement officials and auditors. A description of the quality assurance program, which includes written procedure manuals on the above discussed items, must be submitted as part of the SIP.

The Colorado legislation, regulation, and SIP narrative and appendices include a quality assurance program which describe details and procedures for implementing inspector records audits, and equipment audits, as well as providing formal training to all state enforcement officials. Performance audits of inspectors will consist of both covert and overt audits. These procedures meet the Federal I/M regulation requirements and are approvable.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

Enforcement against licensed stations or contractors, and inspectors shall include swift, sure, effective, and consistent penalties for violation of

program requirements. The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits. An official opinion explaining state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts and jurisdictions are involved, who will prosecute and adjudicate cases and the resources and sources of those resources which will support this function.

The Colorado submittal includes the legal authority to establish and impose penalties against stations, contractors and inspectors. The I/M SIP and regulations include penalty provisions for stations, contractors, and inspectors. These penalty schedules meet the Federal I/M regulation requirements and are approvable. The State I/M regulation gives the state auditor the authority to temporarily suspend station and inspector licenses or certificates immediately upon finding a violation. The submittal includes a description of administrative and judicial procedures relevant to the enforcement process which meet Federal I/M regulations and are approvable.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an enhanced I/M program. The Federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR 51.359.

The State regulation requires the collection of data on each individual test conducted and describes the type of data to be collected. The type of test data collected meets the Federal I/M regulation requirements and is approvable. The appendices to the I/M SIP submittal contain a procedure manual that details the gathering and reporting requirements of the State and the State's contractor required under 40 CFR 51.359 and is approvable.

Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the State and EPA. The Federal I/M regulation requires annual reports to be submitted to EPA which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA which addresses changes in program design, regulations, legal authority, program procedures and any weaknesses in the program found during the two year period and how these problems will be or were corrected.

The State enhanced I/M legislation and regulation provide for the analysis and reporting of data for the testing program, quality assurance program, quality control program, and the enforcement program. The State will submit annual reports on the I/M programs to EPA by July of the subsequent year. Additionally, the State will submit a biennial report detailing changes to and deficiencies in the State's I/M program. The appendices to the I/M SIP submittal contain procedure manuals that detail the gathering, analysis, and reporting requirements of the State and the State's contractor. The type of data to be gathered, analyzed, and reported to EPA meets the Federal I/M regulation requirements and is approvable.

Inspector Training and Licensing or Certification—40 CFR 51.376

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to perform inspections.

The State I/M regulation requires all inspectors to receive formal training, and to be certified by the Colorado Department of Revenue. The State submittal includes a description of and the information covered in the training program, a description of the written and hands-on tests and a description of the certification process. The SIP meets the Federal I/M regulation requirements for inspector training and certification and is approvable.

Public Information and Consumer Protection—40 CFR 51.368

The Federal I/M regulation requires the SIP to include public information and consumer protection programs. The State submittal includes contract provisions for a public information program which educates the public on enhanced I/M, State and Federal regulations, air quality and the role of motor vehicles in the air pollution problem, and other items as described in the Federal rule. The consumer protection program includes provisions which allow for vehicle owners to challenge the results of vehicle testing through the use of State-run referee stations, and protection of whistle blowers. In addition, the State provides assistance to motorists in obtaining warranty-covered repairs. The public information and consumer protection programs contained in the SIP submittal meet the Federal regulations and are approvable.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The Federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation and a description of the repair technician training resources available in the community.

The State I/M legislation and regulation require the implementation of a technical assistance program, which includes a contractor-operated hot line service to assist repair technicians, state technical diagnostic centers, and a method of regularly informing the repair facilities of changes in the program, training courses, and common repair problems. The I/M contractor will be responsible initially for development of an emission repair technician training program. The State envisions that eventually this function will be taken over by vocational and community educational facilities in the area. A repair facility performance monitoring program will provide motorists whose vehicles fail the test a summary of local repair facilities performance. The State revised the January 14, 1994 SIP to commit to providing performance statistics on all repair facilities that perform I/M emission repairs upon request. The State will provide regular feedback to each facility on their repair performance. The submittal of a completed repair form at the time of retest is required. The repair effectiveness improvement plan meets the criteria described in the Federal regulation and is approvable.

Compliance With Recall Notices—40 CFR 51.370

The Federal regulation requires the states to establish methods to ensure that vehicles that are subject to enhanced I/M and are included in a emission related recall receive the required repairs prior to completing the emission test or renewing the vehicle registration.

The Colorado legislation provides the legal authority to require owners to comply with emission related recalls before completing the emission test and prior to being eligible for registration renewal. The SIP appendices detail procedures to be used to incorporate national database recall information into the State inspection/registration database and quality control methods to insure recall repairs are properly documented and tracked. The submittal includes a requirement to submit an annual report to EPA which includes the information as required in 40 CFR Part 51.370(c). The recall compliance program contained in the SIP submittal meets the Federal requirements and is approvable.

On-Road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the Federal regulations. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of a on-road test shall be required to pass an out-of-cycle test.

Legal authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements is contained in the State legislation. The SIP submittal requires on-road testing of 0.5% of the subject fleet per year in the Denver-Boulder nonattainment area to be implemented by the contractor or its subcontractor. A description of the program, which includes test limits and criteria, and methods of collecting, analyzing and reporting the results of the testing is detailed in the submittal. The on-road testing program described in the SIP meets Federal requirements and is approvable.

State Implementation Plan Submissions/Implementation Deadlines—40 CFR 51.372–373

The Federal regulation requires enhanced I/M programs to be implemented by January 1, 1995 except for: (1) Existing test-and-repair programs which may test 30% of the subject fleet in the test-only system during 1995 and test all subject vehicles in the test-only system beginning January 1, 1996 (during the phase-in period, existing requirements may continue to apply for the test-and-repair portion of the program until it is phased out by January 1, 1996) or (2) Areas starting new test-only programs and those with existing test-only programs may phase in the new test procedures between January 1, 1995 and January 1, 1996; however, all other program requirements must be fully implemented by January 1, 1995.

The Colorado submittal included binding State I/M regulations, legislative authority to implement the program, final specifications, a final RFP, procedural documents, a modeling demonstration showing that the program design meets the performance standard, evidence of adequate funding and resources to implement the program, and a detailed discussion on each of the required program design elements. The submittal states that all inspectors and stations will be certified by December 31, 1994, mandatory testing will begin on January 1, 1995, and the start date for implementation of full-stringency cutpoints will be no later than January 1, 1999. The submittal also includes a commitment to include onboard diagnostic checks in the enhanced I/M program within 2 years after promulgation of onboard diagnostic check regulations for I/M programs. The SIP meets the SIP submission and Implementation deadline requirements set forth in the Federal I/M regulation.

V. Request for Comments

EPA is proposing to conditionally approve the Colorado SIP revision for an enhanced I/M program, which was submitted on January 14, and June 24, 1994. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

VI. Proposed Action

EPA is proposing to conditionally approve the Colorado I/M program. Revisions to the SIP were submitted on January 14, 1994, and June 24, 1994. Conditional approval is based on the State's commitment to satisfy conditions no later than one year from the date of final conditional approval. If such conditions are not met by this date, the conditional approval will automatically become a disapproval.

VII. Executive Order 12866

The OMB has exempted this rule from the requirements of Section 6 of Executive Order 12866.

VIII. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, Part D of the Act and conditional SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k)(4), the disapproval will not affect any existing state requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that such disapproval action would not have a significant impact on a substantial number of small entities because it would not remove existing state requirements nor substitute a new Federal requirement.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting

and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 30, 1994.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 94–17005 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[SIPTRAX NO. MD26–1–6081; FRL–5011–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland: Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published May 25, 1994 (59 FR 26994). On May 25, 1994, EPA proposed limited approval/disapproval of a State Implementation Plan (SIP) revision submitted by the State of Maryland regarding its new source review regulations (COMAR 26.11.02 and 26.11.17) and associated definitions (COMAR 26.11.01.01). At the request of Maryland, EPA is extending the comment period until July 11, 1994.

DATES: Comments must be received on or before July 11, 1994.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 597–9337.

Dated: July 1, 1994.

Stanley L. Luskowski,

Acting Regional Administrator, Region III.

[FR Doc. 94–17088 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[W142–01–6260; FRL–5012–4]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve portions and to conditionally approve other portions of a State Implementation Plan (SIP) revision submitted by the State of Wisconsin on November 15, 1993, if the State submits certain items prior to final action. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in the Milwaukee Severe ozone nonattainment area, which has 17 years to attain the National Ambient Air Quality Standards (NAAQS) pursuant to section 181(a)(2) of the Clean Air Act (Act), and the Sheboygan Moderate ozone nonattainment area. This action is being taken under section 110 of the Act. Should the State fail to timely submit the items described below, EPA is proposing in the alternative to disapprove or conditionally approve the SIP.

DATES: Comments must be received on or before August 15, 1994.

ADDRESSES: Comments may be mailed to: Carlton Nash, United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Toxics and Radiation Branch, Regulation Development Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the documents relevant to this action are available at the above address for public inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: John M. Mooney, (312) 886–6043.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxide (NO_X) emissions. An important control measure to reduce these emissions is the implementation of a motor vehicle inspection and maintenance (I/M) program. Despite being subject to the most rigorous vehicle pollution control program in the world, cars and trucks still create about half of the ozone air pollution and nearly all of the carbon monoxide and other toxic contaminant air pollution in U.S. cities. Of all highway vehicles, passenger cars and light trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. They also emit substantial amounts of nitrogen oxides and air toxics. Although the U.S. has made progress in reducing emissions of these pollutants, total fleet emissions remain high. This is because the number of vehicle miles travelled on U.S. roads has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same 2 decades. Projections indicate that the steady growth in vehicle travel will continue.

Today's cars are absolutely dependent on properly functioning emission controls to reduce pollution levels. Minor malfunctions in the emission control system can increase emissions significantly, and the average car on the road emits three to four times the new car standard. Major malfunctions in the emission control system can cause emissions to skyrocket. As a result, 10 to 30 percent of cars are causing a significantly larger percentage of the vehicle-related pollution problem. Unfortunately, it is rarely obvious which cars fall into this category, as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect the performance of the vehicle.

Effective I/M programs, however, can identify these problem cars and assure their repair. I/M programs ensure that cars are properly maintained, producing emission reductions soon after the program is put in place.

EPA projects that "enhanced" I/M programs in the most polluted cities around the country would cut vehicle VOC emissions by 32 percent, at a cost of about $12.50 per vehicle per year. This represents a major step toward fulfilling, at a relatively low cost, the Act's (the Act) requirement that the most seriously polluted cities achieve a 24 percent overall emissions reduction by 2000.

The Clean Air Act as amended in 1990 requires that most polluted cities adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the population of the area. The Moderate ozone nonattainment areas, as well as Marginal ozone areas with existing or previously required I/M programs, fall under the "basic" I/M requirements. Enhanced programs will be required in serious, severe, and extreme ozone nonattainment areas with urbanized populations of 200,000 or more; CO areas that exceed a 12.7 parts per million (ppm) design value [1] with urbanized populations of 200,000 or more; and all metropolitan statistical areas (MSA) with populations of

[1] The air quality design value is estimated using EPA guidance. Generally, the fourth highest monitored value with 3 complete years of data is selected as the ozone design value because the standard allows one exceedance for each year. The highest of the second high monitored values with 2 complete years of data is selected as the carbon monoxide design value.

100,000 or more in the Northeast Ozone Transport Region (OTR).

"Basic" and "enhanced" I/M programs both achieve their objectives by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" program covers more of the vehicles in operation, employs inspection methods better suited to finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired.

The Act requires States to make changes to improve existing I/M programs or to implement new ones for certain nonattainment areas. Section 182(a)(2)(B) of the Act requires EPA to publish updated guidance for State I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The Act further requires each area required to have an I/M program to incorporate this guidance into the SIP. Based on these requirements, EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950, codified at 40 Code of Federal Regulations (CFR) parts 51.350–51.373).

Under sections 182(c)(3), 187(a)(6) and 187(b)(1) of the Act, any area having a 1980 Bureau of Census-defined urbanized area population of 200,000 or more and that is designated as either: (1) a serious or worse ozone nonattainment area or (2) a moderate or serious CO nonattainment areas with a design value greater than 12.7 ppm, shall implement enhanced I/M in the 1990 Census-defined urbanized area.

The Act requires basic I/M programs to be implemented in the 1990 Census-defined urbanized area of the following nonattainment areas: (1) Any area which is classified as moderate ozone nonattainment and is not required to implement enhanced I/M, or (2) any area outside the OTR that is classified as serious or worse ozone nonattainment or moderate or serious CO nonattainment with a design value greater than 12.7 ppm and having a 1990 Census-defined urbanized area population of less than 200,000. Any areas classified as marginal ozone nonattainment or moderate CO nonattainment with a design value of 12.7 ppm or less shall continue operating existing programs that are part of an approved SIP as of November 15, 1990, or implement the basic program required for the area by the pre-Amended Act, and shall update the program to meet the basic I/M requirements set forth in 40 CFR parts 51.350–373.

The I/M regulation establishes minimum performance standards for basic and enhanced I/M programs as well as requirements for the following: network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standards; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification; public information and consumer protection; improving repair effectiveness; compliance with recall notices; on-road testing; SIP revisions; and implementation deadlines. The performance standard for basic I/M programs remains the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Act. The performance standard for enhanced I/M programs is based on a high-technology test, known as IM240, for new technology vehicles (i.e., those with closed-loop control and, especially, fuel-injected engines), including a transient loaded exhaust short test incorporating hydrocarbons (HC), CO and NO_X cutpoints, an evaporative system integrity (pressure) test and an evaporative system performance (purge) test. The Federal regulation requires enhanced I/M programs to be implemented by January 1, 1995, except for: (1) Existing test-and-repair programs which may test 30 percent of the subject fleet in the test-only system during 1995 and test all subject vehicles in the test-only system beginning January 1, 1996 (during the phase in period, existing requirements may continue to apply for the test-and-repair portion of the program until it is phased out by January 1, 1996) or (2) Areas starting new test-only programs and those with existing test-only programs may phase in the new test procedures between January 1, 1995 and January 1, 1996; however, all other program requirements must be fully implemented by January 1, 1995.

II. Background

The State of Wisconsin currently contains 2 ozone nonattainment areas which are required to implement I/M programs in accordance with the Act. The Milwaukee severe-17 ozone nonattainment area contains the Milwaukee-Racine MSA which has a 1980 Census-defined population of 1,572,000 and therefore must implement an enhanced I/M program. The Sheboygan moderate ozone nonattainment area contains the Sheboygan MSA and, as a result, is subject to the basic I/M requirements. 40 CFR part 51 372(b)(2)) requires affected States to submit full I/M SIP revisions that meet the requirements of the Act to EPA by November 15, 1993.

On November 15, 1993, the Wisconsin Department of Natural Resources (WDNR) submitted to EPA a revised SIP for an enhanced I/M program to cover areas where both the basic and the enhanced requirements apply. The revision included Wisconsin Statutes Sections 110.20 and 144.42 and Chapter 341; Wisconsin Administrative Code Chapters TRANS 131 and NR 485; and the "Wisconsin Motor Vehicle Inspection Program Request for Proposal for the Establishment and Operation of Motor Vehicle Inspection Program Facilities." The State I/M regulations were adopted by WDNR in June 1993 and became effective on July 1, 1993.

EPA's summary of the requirements of the Federal I/M regulations as found in 40 CFR part 51.350–51.373 and its analysis of the State submittal are below. A more detailed analysis of the State submittal is contained in a Technical Support Document (TSD) dated June 6, 1994, which is available from the Region 5 office, listed in the **ADDRESSES** section. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992 **Federal Register** notice (57 FR 52950) or 40 CFR parts 51.350–51.373.

III. EPA's Analysis of Wisconsin's Enhanced I/M Program

Applicability—40 CFR 51.350

Section 182(c)(3) of the Act and 40 CFR 51.350(a) require States which contain areas classified as serious or worse ozone nonattainment and containing MSAs with a population of 200,000 or more to implement an enhanced I/M program. As noted above, the State of Wisconsin contains the Milwaukee-Racine MSA in its Milwaukee Severe-17 ozone nonattainment area. In addition, section 182(b)(4) of the Act and 40 CFR part 51.530(a) require States with moderate ozone nonattainment areas containing 1990 Census-defined urbanized areas to implement a basic I/M program. The State of Wisconsin contains the Sheboygan urbanized area where this requirement applies.

There are 6 counties in Wisconsin that are required to implement an enhanced I/M program: Kenosha, Milwaukee, Ozaukee, Racine,

Washington, and Waukesha Counties. There is one county, Sheboygan County, that is required to implement a basic I/M program. The State has, however, expanded the existing program in the Milwaukee area to cover Sheboygan.

The State submittal does contain the legal authority necessary to establish the program boundaries for enhanced I/M. The program boundaries meet the Federal I/M requirements under section 51.350 and are approvable. Wisconsin legislation provides that the I/M program shall apply where an area will not be able to attain the National Ambient Air Quality Standards (NAAQS) without it, and that such coverage can be deleted if demonstrated that the area will attain the NAAQS. This provision allows Wisconsin to add areas to the existing program but does not limit the applicability of the program in the required areas.

The Federal I/M regulation requires that the State program shall not terminate until it is no longer necessary. EPA has determined that a SIP which does not terminate prior to the attainment deadline for each applicable area (i.e., 2007 for the Milwaukee severe-17 ozone nonattainment area, and 1996 for the Sheboygan moderate ozone nonattainment area) satisfies this requirement. The Wisconsin program does not contain a termination provision and is therefore approvable.

Enhanced I/M Performance Standard—40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both NO_X and VOCs. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel controls, and model I/M program parameters for the following: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. At the time of the Wisconsin submittal the most current version was MOBILE5a.

The Wisconsin submittal includes the following program design parameters:

network type—centralized
start date—1984 for exhaust testing; 1995 for evaporative testing
test frequency—biennial
model year coverage—1968+
vehicle type coverage—LDGV, LDGT1, LDGT2, & HDGV
exhaust emission test type—IM240 on 1968+ model years
emission standards—0.8/20/2.0 gms/mile for HC/CO/NO_X to year 2000; 0.6/15/1.5 gms/mile for HC/CO/NO_X after year 2000
emission control device visual inspection—none
evaporative system function checks—pressure and purge on 1971+ model years
stringency (pre-1981 failure rate)—40%
waiver rate (pre-1981/1981 and newer)—3%
compliance rate—96%
evaluation date(s)—2000, 2003, 2006, 2008

The Wisconsin program design parameters meet the Federal I/M regulations and are approvable.

The emission levels achieved by the State were modeled using MOBILE5a. The modeling demonstration was performed correctly, used local characteristics and demonstrated that the program design will exceed the minimum enhanced I/M performance standard, expressed in gpm, for VOCs and NO_X for each milestone and for the attainment deadline. As noted below, this modeling demonstration does not account for the impact of vehicle exemptions. In addition, this modeling demonstration was not included in the State's November 15, 1993, submittal and has yet to be formally submitted to EPA as a revision to the SIP. In order to receive full approval of its SIP, the State must revise its modeling demonstration to account for exempted vehicles and must formally submit this demonstration in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period which is 30 days following the publication of this notice.

Network Type and Program Evaluation—40 CFR 51.353

Enhanced I/M programs shall be operated in a centralized test-only format, unless the State can demonstrate that a decentralized program is equally effective in achieving the enhanced I/M performance standard. The enhanced program shall include an ongoing evaluation to quantify the emission reduction benefits of the program and to determine if the program is meeting the requirements of the Act and the Federal I/M regulation. The SIP shall include details on the program evaluation and shall include a schedule for submittal of biennial evaluation reports, data from a State monitored or administered mass emission test of at least 0.1 percent of the vehicles subject to inspection each year, description of the sampling methodology, the data collection and analysis system and the legal authority enabling the evaluation program.

The State legislative authority and the State I/M regulations provide for a centralized, test-only network. Wisconsin's centralized, test-only network type is approvable. The submittal does not, however, include provisions for ongoing program evaluation and, as a result, does not meet the Federal I/M regulations. In order to receive final full approval of its program, the State must submit to EPA provisions for ongoing program evaluation satisfying all of the requirements of 40 CFR part 51.353. Specifically, the State must submit schedules for program evaluation and methodologies by which this biennial program evaluation will be carried out, as required by 40 CFR part 51.353. EPA proposes to approve the Wisconsin enhanced I/M SIP if the State submits these provisions in time to allow EPA to place them in the docket for public comment at least 2 weeks prior to the close of the public comment period.

Adequate Tools and Resources—40 CFR 51.354

The Federal regulation requires the State to demonstrate that adequate funding of the program is available. A portion of the test fee or a separately assessed per vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if it is demonstrated that the funding can be maintained. Reliance on funding from the State or local General Fund is not acceptable unless doing otherwise would be a violation of the State's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The Wisconsin submittal does not contain a description of funding sources for the I/M program. In order to receive full approval, the State must submit to EPA a description of the method by which the program will be funded. This description must demonstrate that sufficient funds, equipment and personnel have been appropriated to meet the program operation requirements of the I/M rule and must be submitted prior to EPA's final rulemaking on this submittal. EPA proposes to approve the SIP if Wisconsin submits this description in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme, shall State how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations, or contract provisions necessary to implement and enforce the test frequency requirement. The program shall be designed to provide convenient service to the motorist by ensuring short waiting times, short driving distances and regular testing hours.

The Wisconsin enhanced I/M regulation provides for a biennial test frequency. Based on the performance standard modeling provided by the State, the enhanced I/M program meets the performance standard accounting for the biennial test frequency. On April 13, 1994, The Wisconsin State Legislature enacted legislation which provides the legal authority to implement and enforce the biennial test frequency. This newly adopted legislation has not yet been formally submitted to EPA as a revision to the SIP, however, once submitted, this authority will be acceptable. EPA proposes to approve the Wisconsin SIP if the State formally submits this revised legislation prior to EPA's final action. EPA has included this legislation in the docket for this proposed rulemaking. The Wisconsin I/M Request for Proposal (RFP) provides sufficient evidence that convenient services will be provided to the motorist. The Wisconsin submittal will meet the test frequency and convenience requirements of the Federal I/M regulations and is approvable upon EPA's receipt of the state's newly enacted legislation.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds gross vehicle weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries and fleets primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside of the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in independent, test-only facilities, according to the requirements of 40 CFR part 51.353(a).

The Federal I/M regulation requires that the SIP shall include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions including the percentage and number of vehicles to be impacted by the exemption.

The Wisconsin enhanced I/M legislation, enacted April 13, 1994, requires coverage of all 1968 and newer light duty vehicles and trucks up to 14,000 pounds GVWR, which are registered or required to be registered in the I/M program area. The Wisconsin legislation and the state's I/M regulations provide the legal authority to implement and enforce the vehicle coverage. This level of coverage is approvable because it provides the necessary emission reductions. The State RFP also describes general requirements related to vehicle coverage. The State submittal does not contain estimates of the number of registered or unregistered vehicles in the area or methods for identifying subject vehicles. These items will be described in more detail in the states final, signed I/M contract, which must be submitted to EPA prior to EPA's final rulemaking, in order to receive full approval on its submittal. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

The state's November 15, 1993, SIP submittal does not adequately address fleet testing requirements. Existing regulations allow for the self testing and repair of fleets and directly contradict the requirements of the final I/M rule. The State is moving forward to amend its TRANS 131 rule to establish detailed provisions for the testing of fleets in accordance with EPA's final rule. In its submittal, the State indicates that these rule changes cannot be completed prior to EPA's final action. EPA proposes to conditionally approve this portion of the state's submittal if the State commits prior to final rulemaking to completing these amendments within one year of EPA's final conditional approval. The state's plan for testing fleet vehicles must meet the requirements of the Federal I/M regulation.

The State regulation provides for limited special exemptions. In its submittal the State did not provide a description of the exemptions' impact on the subject fleet. In addition, the modeling demonstration submitted by the State does not account for these exemptions in the emission reduction analysis. The State must describe the extent of the exemptions impact in accordance with 40 CFR part 51.356 in order for EPA to fully approve the state's submittal. EPA proposes to approve the SIP if the State submits, in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period, a description that indicates that the performance standard will not be adversely affected.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR part 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, dated July 1993.

The State I/M RFP includes a general provision for loaded tailpipe emission, evaporative system purge, and evaporative system pressure testing. Detailed descriptions of the test procedures and standards will be contained in the state's final, signed I/M contract. After reviewing the state's RFP, EPA believes that these test procedures and standards will conform

to EPA approved test procedures and will be approvable. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.357 to EPA prior to final rulemaking. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

In addition, the State is currently in the process of amending its rule NR 485 to establish a series of increasingly stringent emission limits (cutpoint schedule) for VOC and NO_x to correspond to those used in the state's modeling demonstration. In its submittal, the State indicates that these rule changes cannot be completed prior to EPA's final action. EPA proposes to conditionally approve this portion of the state's submittal if the State submits a commitment to EPA prior to final rulemaking committing to complete these amendments within one year of EPA's final conditional approval.

The State is also in the process of applying for an exemption from NO_x control requirements under section 182(f) of the Act. The state's contract and regulations should contain provisions for establishing a NO_x testing requirement, however, these provisions may allow for establishing the NO_x cutpoint in accordance with EPA's action on the section 182(f) petition. If EPA approves this petition for exemption, the I/M rule does not require NO_x emission reductions from the program but the program must be designed to offset NO_x increases resulting from HC and CO failures pursuant to 40 CFR part 51.351(d). EPA proposes to approve this portion of the SIP if the State submits the final contract containing NO_x provisions consistent with this discussion in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

The State RFP also contains provisions requiring vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be tested in the same manner as other subject vehicles. However, detailed descriptions of these procedures will be contained in the state's final, signed I/M contract. After reviewing the state's RFP, EPA believes that these test procedures and standards will conform to EPA approved test procedures and will be approvable. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.357 to EPA prior to final rulemaking. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Test Equipment—40 CFR 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The Federal I/M regulation requires that the State SIP submittal include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The State RFP contains general specifications for test equipment to be used in the program. The specifications require the use of computerized test systems. The specifications will be further developed in the final I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.358 to EPA prior to final rulemaking. The contract must include performance features and functional characteristics of the computerized test systems which meet the Federal I/M regulations. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Quality Control—40 CFR 51.359

Quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

The State RFP contains general provisions for the establishment of quality control measures for the emission measurement equipment, record keeping requirements, and measures to maintain the security of all documents used to establish compliance with the inspection requirements. These measures and practices will be further developed in the state's final I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.359 to EPA prior to final rulemaking. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared to the CPI for 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The Federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that must be taken if the waiver rate exceeds that committed to in the SIP.

The legislative authority and State regulation provides the necessary authority to issue waivers, set and adjust cost limits, and administer and enforce the waiver system. The Wisconsin I/M regulation sets a $450 cost limit and allows for an annual adjustment of the cost limit to reflect the change in the CPI as compared to the CPI in 1989 for the 6 county Milwaukee nonattainment area and a $200 cost limit for 1981 and newer models and a $75 cost limit for vehicles older than model year 1981 in Sheboygan county. Although amended legislative authority requires actual expenditure of funds to qualify towards the cost limit, existing regulations still allow estimates of repair costs to qualify. The provisions of the Wisconsin legislative authority override the previous administrative rule in this situation. In addition, Wisconsin is amending its regulations to correct this contradiction. EPA proposes to conditionally approve the SIP based on Wisconsin's commitment to adopt and submit these regulatory amendments within one year of final action. The State must submit this commitment to EPA prior to final action in order to receive conditional approval. The regulation and RFP include provisions which address waiver criteria and procedures, including cost

limits, tampering and warranty related repairs, quality control and administration. These provisions will be further developed in the final, signed I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.360 to EPA prior to final rulemaking. The contract must require repairs for vehicles to be performed by a recognized or certified repair technician. The contract may allow for compliance via diagnostic inspection provided the policies and procedures outlined in the submittal meet Federal I/M regulations. The State regulation allows for time extensions. The contract must specify the criteria for allowing time extensions and for tracking extensions.

The State has set a maximum waiver rate of 3 percent for both pre-1981 and for 1981 and later vehicles. While the State has a good history of maintaining the program's waiver rate, EPA is concerned that the State may have a problem maintaining the 3 percent waiver rate given the lower expenditure waiver limit in Sheboygan county (i.e., $450 versus $200). Therefore, in order to receive full approval the State must describe corrective actions to be taken if the waiver rate exceeds 3 percent. This waiver rate has been used in the performance standard modeling demonstration and is approvable. However, in its SIP submittal, the State did not include a formal commitment to the waiver and compliance rates used in the modeling demonstration. EPA proposes to approve the SIP if Wisconsin submits the contract, description of corrective actions, and appropriate commitments in time to allow EPA to place them in the docket 2 weeks prior to the close of the public comment period.

Motorist Compliance Enforcement—40 CFR 51.361

The Federal regulation requires that compliance shall be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. Registration denial enforcement consists of rejecting an application for initial registration or reregistration of a used vehicle unless the vehicle has complied with the I/M requirement prior to the granting of the application. The SIP shall provide information concerning the enforcement process, legal authority to implement and enforce the program, a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice.

Wisconsin's legislative authority and I/M regulations provide the legal authority to implement a registration denial system. Wisconsin has set a compliance rate of 96 percent, which was used in the performance standard modeling demonstration. However, in its SIP submittal, the State did not include a formal commitment to this compliance rate. The submittal includes detailed information concerning the registration denial enforcement process which meets the Federal I/M regulation requirements and is approvable. The State has not submitted a detailed penalty schedule including a description of mandatory, meaningful fines for the program. The State is in the process of amending its TRANS 131 rule to establish a more thorough penalty schedule. In its submittal, the State indicates that these rule changes cannot be completed prior to EPA's final action. EPA proposes to conditionally approve this portion of the state's submittal if the State submits a commitment to EPA prior to final rulemaking committing to completing these amendments within one year of EPA's final conditional approval. The state's penalty schedule must meet the requirements of the Federal I/M regulation.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The Federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate and enforce the program.

The Wisconsin RFP contains general provisions for quality control of the enforcement program and includes the establishment of an information management system. These provisions will be further developed in the final, signed I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.362 to EPA prior to final rulemaking. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Quality Assurance—40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all State I/M enforcement officials and auditors. The State must submit a description of the quality assurance program, including written procedure manuals on the above discussed items, as part of the SIP.

The Wisconsin RFP includes general provisions for a quality assurance program. The final, signed I/M contract will provide specific details and procedures for inspections, records, equipment audits, and formal training for all State enforcement officials will be specified by the final, signed I/M contract.

In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.360 to EPA prior to final rulemaking. Detailed procedures for performing overt and covert audits are being developed separately from the final, signed I/M contract. The State must submit a description of these procedures to EPA in order to receive full approval of its submittal. EPA proposes to approve the SIP if Wisconsin submits the contract and description of audit procedures in time to allow EPA to place them in the docket 2 weeks prior to the close of the public comment period.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

Enforcement against licensed stations or contractors and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements. The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits. The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts and jurisdictions are involved, who will prosecute and adjudicate cases, the resources to be allocated to this function, and the source of those funds.

The Wisconsin submittal includes the legal authority to establish and impose penalties against stations, contractors and inspectors. The State I/M regulation and legislation includes general penalty provisions for stations, contractors and inspectors. Specific penalty schedules will be detailed in the final signed, I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.364 to EPA prior to final rulemaking. In addition, the submittal does not include a description of administrative and judicial procedures relevant to the enforcement process which meets Federal I/M regulations. The State must submit this documentation to EPA in order for the submittal to be fully approved. EPA proposes to approve the SIP if Wisconsin submits the contract and description of administrative and judicial procedures in time to allow EPA to place them in the docket 2 weeks prior to the close of the public comment period.

Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The Federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR part 51.359.

The RFP contains provisions regarding the collection of data on each individual test conducted and generally describes the type of data to be collected. These provisions will be further developed in the final, signed I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.365 to EPA prior to final rulemaking. The submittal also commits to gather and report the results of the quality control checks required under 40 CFR part 51.359 and will be approvable upon EPA's receipt of the final, signed I/M contract. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring an evaluation of the program by the State and EPA. The Federal I/M regulation requires annual reports to be submitted that provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July of each year and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA that addresses changes in program design, regulations, legal authority, program procedures, any weaknesses in the program found during the previous two-year period and how these problems will be or were corrected.

The RFP provides general provisions for the analysis and reporting of data for the testing program, quality assurance program, quality control program and the enforcement program. These provisions will be further developed in the final, signed I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR 51.364 to EPA prior to final rulemaking. The State must also commit to submit annual reports on these programs to EPA by July of the subsequent year. A commitment to submit a biennial report to EPA, which addresses reporting requirements set forth in 40 CFR 51.366(e), must also be submitted to EPA in order to receive full approval. EPA proposes to approve the SIP if Wisconsin submits the contract, a commitment to submit annual reports and a biennial report in time to allow EPA to place them in the docket 2 weeks prior to the close of the public comment period.

Inspector Training and Licensing or Certification—40 CFR 51.376

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to perform inspections.

The RFP contains general provisions regarding requirements for inspectors' formal training, certification and licensing. The signed contract will include a description of the training program, the written and hands-on tests, and the licensing, certification processes. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.376 to EPA prior to final rulemaking. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Public Information and Consumer Protection—40 CFR 51.368

The Federal I/M regulation requires the SIP to include public information and consumer protection programs. The RFP includes a public information program, which educates the public on I/M, State and Federal regulations, air quality, the contribution of motor vehicles to the air pollution problem, and other items as described in the Federal rule. The consumer protection program, which includes provisions for a challenge mechanism, protection of whistle blowers and assistance to motorists in obtaining warranty covered repairs, will be further developed in the final contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.364 to EPA prior to final rulemaking. EPA proposes to approve the SIP if Wisconsin submits the contract in time to allow EPA to place them in the docket 2 weeks prior to the close of the public comment period.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The Federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The State shall provide the repair industry with information and assistance related to vehicle inspection diagnosis and repair. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation and a description of the repair technician training resources available in the community.

The RFP includes general provisions for the implementation of a technical assistance program, which includes a hot line service to assist repair technicians and a method of regularly informing the repair facilities of changes in the program, training courses, and common repair problems. A repair facility performance monitoring program is also included in the RFP. This program provides the motorist whose vehicle fails the test a summary of local repair facilities' performances, and requires the submittal of a completed repair form at the time of retest. The program also provides feedback to each repair facility on its repair performance. These provisions will be further developed in the final, signed I/M contract. In order to receive full approval, the State must submit its final, signed contract addressing the requirements of 40 CFR part 51.369 to EPA prior to final rulemaking. The State must also submit a description of available repair technician training

resources. EPA proposes to approve the SIP if Wisconsin submits the contract and description of training resources in time to allow EPA to place it in the docket 2 weeks prior to the close of the public comment period.

Compliance With Recall Notices—40 CFR 51.370

The Federal regulation requires the states to establish methods to ensure that vehicles that are subject to enhanced I/M and are included in a emission related recall receive the required repairs prior to completing the emission test or renewing the vehicle registration.

The Wisconsin legislation provides the legal authority to require owners to comply with emission related recalls before completing the emission test. Specific procedures to be used to incorporate national database recall information into the State inspection database and quality control methods to insure that recall repairs are properly documented and tracked will be provided in the final, signed I/M contract, and will also be specified through amendments to the state's TRANS 131 rule. The submittal does not include a commitment to submit an annual report to EPA that includes the information required in 40 CFR part 51.370(c). In its submittal, the State indicates that these rule changes cannot be completed prior to EPA's final action. EPA proposes to conditionally approve this portion of the state's submittal if the State submits a commitment to EPA prior to final rulemaking committing to completing these amendments and submitting annual reports within one year of EPA's final conditional approval.

On-Road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the Federal regulations. The program must include on-road testing of 0.5 percent of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of a on-road test shall be required to pass an out-of-cycle test.

Legal authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements is contained in the State legislation. The SIP submittal requires the use of RSD and roadside pullovers to test at least 0.5 percent of the subject fleet per year in the I/M program area. A description of the program which includes test limits and criteria, resource allocations, and methods of collecting, analyzing and reporting the results of the testing will be detailed in the final I/M contract and amendments to the state's TRANS 131 rule. In its submittal, the State indicates that these rule changes cannot be completed prior to EPA's final action. EPA proposes to conditionally approve this portion of the state's submittal if the State submits a commitment to EPA prior to final rulemaking committing to completing these amendments within one year of EPA's final conditional approval.

State Implementation Plan Submissions/Implementation Deadlines—40 CFR 51.372–373

The Federal regulation requires enhanced I/M programs to be implemented by January 1, 1995 except for: (1) Existing test-and-repair programs, which may test 30 percent of the subject fleet in the test-only system during 1995 and test all subject vehicles in the test-only system beginning January 1, 1996 (during the phase-in period, existing requirements may continue to apply for the test-and-repair portion of the program until it is phased out by January 1, 1996) or (2) Areas starting new test-only programs and those with existing test-only programs may phase in the new test procedures between January 1, 1995 and January 1, 1996; however, all other program requirements must be fully implemented by January 1, 1995.

The Wisconsin submittal included final State I/M regulations, preliminary legislative authority to implement the program, final specifications, a final RFP, procedural documents, and a discussion on each of the required program design elements. The submittal states that all inspectors and stations will be certified, that mandatory testing has already started, and that the start date for implementation will be July 3, 1995. The submittal also includes a commitment to include onboard diagnostic checks in the I/M program within 2 years after promulgation of onboard diagnostic check regulations for I/M programs. As noted in this proposed rulemaking, the State must timely submit its final, signed I/M contract, most recent changes to its I/M legislation enacted on April 13, 1994, final modeling demonstration, narrative descriptions of certain program elements, commitments to minimum compliance and enforcement related activity levels, and final rule changes or appropriate commitments prior to EPA's final rulemaking in order to receive final approval and conditional approval of its I/M submittal.

EPA's review of the material indicates that, subject to the conditions and contingencies noted above, the State has adopted an enhanced I/M program in accordance with the requirements of the Act. EPA is proposing to approve and conditionally approve the Wisconsin SIP revision for an enhanced I/M program, which was submitted on November 15, 1993, contingent on the timely receipt of the materials noted above from the State. EPA is soliciting public comments on the issues discussed in this notice and the additional material to be placed in the docket during the public comment period, or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

EPA is proposing to approve portions and conditionally approve other portions of this revision to the Wisconsin SIP for an enhanced I/M program. In the alternative, if Wisconsin fails to timely submit the materials discussed above, or if such materials do not meet the requirements of the Federal I/M rule, EPA proposes to disapprove the SIP or to conditionally approve these portions of the plan if the State submits the appropriate commitment(s) to remedy any deficiencies within one year of final conditional approval.

I. Basis for Conditional Approval

The EPA believes conditional approval is appropriate in this case because the State has developed final, fully adopted rules for the enhanced I/M program and needs only to amend these rules to address a number of enhanced I/M program requirements. As a condition of the U.S. EPA's proposed conditional approval, the State must submit final, fully adopted rules to EPA no later than one year after EPA's final conditional approval.

II. Statement of Approvability

Under the authority of the Governor, the Wisconsin Department of Natural Resources submitted a SIP revision to satisfy the requirements of the I/M regulation to the EPA on November 15, 1993. The Agency has reviewed this submittal and is proposing to approve portions and proposing to conditionally approve other portions of it pursuant to Sections 110(k) of the Act, on the condition that the portions of the I/M program noted above are adopted and/

or submitted on the schedules noted in this proposed rulemaking.

If the State fails to timely submit the required regulations and other material or commit to do so within one year of EPA's final conditional approval, EPA proposes in the alternative to disapprove the SIP as failing to comply with section 110 and Part D.

If the EPA takes final conditional approval on the commitment, the State must meet its commitment to adopt and submit the final rule amendments within one year of the conditional approval. Once the EPA has conditionally approved this committal, if the State fails to adopt or submit the required rules to EPA, final approval will become a disapproval. EPA will notify the State by letter to this effect. Once the SIP has been disapproved, these commitments will no longer be a part of the approved nonattainment area SIPs. The EPA subsequently will publish a notice to this effect in the notice section of the **Federal Register** indicating that the commitment or commitments have been disapproved and removed from the SIP. If the State adopts and submits the final rule amendments to the EPA within the applicable time frame, the conditionally approved commitments will remain part of the SIP until the EPA takes final action approving or disapproving the new submittal. If the EPA approves the subsequent submittal, those newly approved rules will become a part of the SIP.

If after considering comments on the proposal, the EPA issues a final disapproval or if the conditional approval portions are converted to a disapproval, the sanctions clock under section 179(a) will begin. This clock will begin on the effective date of the final disapproval or at the time the EPA notifies the State by letter that a conditional approval has been converted to a disapproval. If the State does not submit and the EPA does not approve the rule on which the disapproval was based within 18 months of the disapproval, the EPA must impose one of the sanctions under section 179(b)—highway funding restrictions or the offset sanction. In addition, the final disapproval starts the 24 month clock for the imposition of a section 110(c) Federal Implementation Plan. Finally, under section 110(m) the EPA has discretionary authority to impose sanctions at any time after a final disapproval.

Procedural Background

The OMB has exempted this action rule from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental Protection, Air Pollution Control, Carbon Monoxide, Nitrogen oxide, Ozone, Volatile Organic Compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 24, 1994.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 94–17006 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 141 and 143

[WH-FRL–5011–2]

National Primary and Secondary Drinking Water Regulations: Analytical Methods for Regulated Drinking Water Contaminants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: EPA is making available to the public a study that reports that a new analytical method, the Colisure test, is at least as good as EPA's previously approved methods for detecting total coliform bacteria and the bacterium, *Escherichia coli*, in drinking water. Both organisms must be monitored under EPA's drinking water regulations on total coliforms. The Agency evaluated the Colisure test and found the test to be at least as good as EPA's "reference" methods. Along with other changes relating to analytical test methods recently proposed, the Agency intends to amend regulations to approve the Colisure test as an option for detecting total coliforms and *E. coli* in drinking water. In addition to the Colisure test, the Agency is making performance data available that supports approval of EPA Method 504.1 for the analysis of 1,2,3-trichloropropane, EPA Method 200.7 for the analysis of sodium, EPA Method 200.8 for the analysis of mercury, Method 3111B in *Standard Methods* for the analysis of sodium, and withdrawal of approval for a number of outdated EPA chemistry methods. EPA invites public comment on whether the Agency should approve the Colisure test and other new and updated methods, and withdraw approval from other indicated methods.

DATES: Comments should be postmarked or delivered by hand on or before August 15, 1994.

ADDRESSES: Send written comments on this notice of availability to Chemistry Methods Docket Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460. Please submit any references cited in your comments. EPA would appreciate an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

The document cited in this notice and any public comments received are available for review at EPA's Water Docket at the address above. For access to Docket materials, call (202) 260–3027 between 9 am and 3:30 pm Eastern Time for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 am to 5:30 pm Eastern Time. For technical questions on chemical methods, contact Richard Reding, Ph.D., Office of Ground Water and Drinking Water (TSD), U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, telephone (513) 569–7946. For technical questions on the Colisure test, contact Paul S. Berger, Ph.D., Office of Ground Water and Drinking Water (MC–4603), U.S. Environmental Protection

Agency, 401 M Street SW., Washington DC 20460, telephone (202) 260–3039.

SUPPLEMENTARY INFORMATION:

I. Background

On December 15, 1993, EPA proposed to amend regulations to approve several new analytical methods and update previously approved methods for a number of regulated chemical, microbiological, and physical contaminants in drinking water (58 FR 65622). The Agency also proposed to withdraw approval for outdated methods and outdated versions of the same method. Since publication of the proposal, the Agency completed evaluation of an additional microbiology method, referred to as the Colisure Test. Performance data indicate to EPA that the Colisure test is at least as good as analytical methods already approved for the detection of total coliforms and *E. coli* and consequently should be approved for inclusion under § 141.21(f)(3). This test is described in the next section.

In addition, since the December 15 proposal, EPA completed evaluation of EPA Method 504.1 for the analysis of 1,2,3-trichloropropane, an "unregulated" volatile organic compound. Performance data suggests that this method, already approved for the analytical determination of ethylene dibromide and dibromochloropropane, is also suitable for analysis of 1,2,3-trichloropropane under § 141.24(e) and § 141.40(g). EPA Method 504.1 has a substantially lower detection limit than the methods already approved for this compound. If approved, laboratories may either use this test or any other approved test for the analytical determination of 1,2,3-trichloropropane in drinking water.

Thirdly, EPA is making available data to support expanding the scope of EPA Method 200.8 to include mercury under § 141.23(k)(l). This expansion would allow a laboratory to analyze mercury and several other inorganic contaminants with a single method. The Agency believes that data support the use of EPA Method 200.8 as an alternative analytical test for the analysis of mercury in drinking water. If the Agency approves EPA Method 200.8 for mercury, the final rule would update the citation for this method from "Methods for the Determination of Metals in Environmental Samples" (EPA–600/4–91–010, June 1991) to "Methods for the Determination of Metals in Environmental Samples—Supplement" (1994). The update would not differ from the earlier publication except that it would include mercury and would be editorially revised to conform with a new EPA format for methods.

The data made available in today's notice supports approval of these three tests. The data is available for review at EPA's Water Docket at the address above. In addition, "Methods for the Determination of Metals in Environmental Samples—Supplement" (1994) also is available in the Docket.

In addition to these three tests, as a result of public comments and additional internal review, EPA is considering amending the drinking water regulations to withdraw the following methods:

(1) EPA Methods 206.2 (arsenic), 208.2 (barium), and 354.1 (nitrite) under § 141.23(k) because those methods are outdated and the Agency has either proposed or already approved equivalent, updated versions of these methods that are published in the American Society for Testing and Materials (ASTM) and 18th edition of Standard Methods for the Examination of Water and Wastewater.

(2) EPA Methods 220.1 and 220.2 (copper), 150.1 and 150.2 (pH), 215.1 and 215.2 (calcium), 239.2 (lead), 120.1 (conductivity), 310.1 (alkalinity), 365.2 and 365.3 (orthophosphate), and 370.1 (silica) under § 141.89(a). When EPA published the December 15, 1993, **Federal Register** proposal, the Agency anticipated imminent publication of another rulemaking associated with the lead and copper rule that would have accomplished this. This other rulemaking, however, has been delayed and consequently EPA now believes it would be appropriate to invite public comment on withdrawal of these outdated EPA methods (or outdated versions of approved methods) in the present notice. EPA has already approved equivalent updated versions of these methods in Standard Methods (18th edition) and ASTM that use the same equipment, procedures, and technology.

(3) EPA Methods 110.2 (color), 220.1 and 220.2 (copper), 425.1 (foaming agents), 140.1 (odor), 150.1 and 150.2 (Ph) and 160.1 (total dissolved solids). EPA no longer intends to recommend these methods for the analysis of secondary contaminants under § 143.4 because these methods are outdated and the Agency already recommends equivalent updated versions in Standard Methods and ASTM.

(4) EPA Method 273.1, EPA Method 273.2, Method 320A (flame photometric method) in the 14th edition of Standard Methods, and ASTM method D1428–64. The Agency would replace these four outdated methods for sodium determinations under § 141.41(d) with method 3111B (direct atomic absorption) in the 18th edition of Standard Methods and EPA Method 200.7 (inductively coupled plasma), which is contained in "Methods for the Determination of Metals in Environmental Samples—Supplement" (1994). Both of these methods are currently approved for several contaminants under §§ 141.23(k), 141.89(a), and 143.4(b).

The present notice indicates the availability of data supporting withdrawal of approval of the above EPA methods. The data is available for review at EPA's Water Docket at the address above.

Finally, the **Federal Register** notice of December, 15, 1993, proposed to approve EPA Methods 100.2 (asbestos) and 525.2 (several organic chemicals) as updates to previous versions. The notice cited two draft publications, "Method for the Determination of Asbestos Structure over 10μm in Length in Drinking Water" and "EPA Method 525.2". EPA has completed these two draft publications, which are available for public review and comment in EPA's Water Docket. The June 1994 version of 100.2 differs from the proposed draft by including editorial clarifications that were suggested by public commenters. The March 1994 version of Method 525.2 differs from the earlier draft by increasing the holding times for samples and sample extracts, and including data that supports this increase.

II. Description of the Colisure Test

The Colisure test simultaneously determines the presence of total coliforms and *E. coli*, both of which must be monitored under the Total Coliform Rule (40 CFR 141.21). The Colisure test involves the addition of a 100-ml drinking water sample, either as a single volume or as five 20-ml volumes, to a specially formulated dehydrated medium. After incubation for 24–28 hours at 35°C, the tube or bottle is examined. If total coliforms are present, the medium changes from a yellow color to a red or magenta color. If *E. coli* are also present, the medium will emit a bright blue fluorescence when subjected to ultraviolet light.

The Colisure test is based on the detection of two enzymes, beta-galactosidase and beta-glucuronidase, which are characteristic of total coliforms and *E. coli*, respectively. For the detection of the enzyme beta-galactosidase, the test medium includes a chromogenic enzyme substrate, chlorophenol red beta-galactopyranoside. If beta-galactosidase is present, the substrate is hydrolyzed to

form chlorophenol red, which is responsible for the color change. For beta-glucuronidase detection, the medium includes a fluorogenic enzyme substrate, 4-methylumbelliferyl-beta-D-glucuronide (MUG). If this enzyme is present, MUG is hydrolyzed, thereby releasing 4-methylumbelliferone which fluoresces when exposed to ultraviolet light.

Test Results

The Agency, after reviewing the data supporting the Colisure test, found the test to be equivalent in performance to EPA's reference methods (the Fermentation Tube Technique for total coliforms, EC–MUG for *E. coli*). With regard to specificity, 21 primary effluent samples from 7 different geographical sites were analyzed for total coliforms and *E. coli* by the Colisure test. Positive and negative cultures were then validated by other, more standard tests. These results indicated that the Colisure test had a false-positive rate of 3.5% and 4.3%, respectively, for total coliforms and *E. coli*. The false-negative rate was 0% and 2.4%, respectively. EPA believes that these results show that the specificity of the Colisure test as an alternative analytical test method for total coliforms and *E. coli* is reasonable.

With regard to performance comparability, investigators collected 31 primary effluent samples from 6 different locations and compared the Colisure method with EPA's reference methods for the detection of chlorine-injured total coliforms and *E. coli*. After 28 hours, the Colisure test had an average of 1.6 times more total coliform-positive responses than the reference method, and 1.76 times more *E. coli*-positive responses than the reference method. This study suggests that the Colisure test could recover chlorine-injured coliforms to a greater extent than EPA's reference methods.

The above studies suggest that the Colisure test performs satisfactorily, and its performance is at least as good as the reference methods for total coliforms and *E. coli*. The Agency requests public comment on the suitability of this test. If the Agency decides to approve the Colisure test, it will probably do so as part of the final rulemaking that promulgates the regulatory revisions proposed in the **Federal Register** on December 15, 1993. If approved, laboratories may either use this test or any other approved test for total coliforms or *E. coli* in drinking water.

Dated: July 5, 1994.

Robert Perciasepe,

Assistant Administrator.

[FR Doc. 94–17090 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 94–66, RM–8469]

Radio Broadcasting Services; Tyler, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Gleiser Communications, Inc., license of Station KDOK–FM, Channel 221A, Tyler, Texas, proposing the substitution of Channel 221C3 for Channel 221A at Tyler, Texas, and the modification of Station KDOK–FM's license to specify operation on the higher powered channel. In order to accommodate the upgrade at Tyler, we also propose to substitute Channel 256A for Channel 221A at Fairfield, Texas, and the modification of Station KNES–FM's license; the substitution of Channel 277A for Channel 221A at Commerce, Texas, and the modification of Station KEMM–FM's license accordingly. See Supplementary Information, *infra*.

DATES: Comments must be filed on or before August 31, 1994, and reply comments on or before September 18, 1994.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: M. Scott Johnson, Esq., Gardner, Carton & Douglas, 1301 K Street, N.W., Suite 900E, Washington, D.C. 20005 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 94–66, adopted June 23, 1994, and released July 8, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Channels 221C3, 256A, and 277A can be allotted to Tyler, Fairfield and Commerce, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 221C3 can be allotted to Tyler with a site restriction of 1.6 kilometers (1.0 miles) west to accommodate Gleiser's desired site. The coordinates for Channel 221C3 at Tyler are North Latitude 32–20–42 and West Longitude 95–10–08. Channel 256A and Channel 277A can be allotted to Fairfield and Commerce, respectively, at the transmitter sites specified in Station KNES–FM's and Station KEMM–FM's authorizations. The coordinates for Channel 256A at Fairfield, Texas, are North Latitude 31–41–52 and West Longitude 96–09–44. The coordinates for Channel 277A at Commerce, Texas, are North Latitude 33–11–40 and West Longitude 96–01–20.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–17034 Filed 7–13–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–72, RM–8479]

Radio Broadcasting Services; Odessa and Los Ybanez, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Ruben Velasquez, permittee of Station KADM–FM, Channel 299C2 at Odessa, Texas, proposing the substitution of Channel 300C1 for Channel 299C2 at Odessa and

modification of Station KADM–FM's construction permit to specify operation on the higher powered channel. In order to accommodate the upgrade at Odessa, we also propose to substitute Channel 253C2 for Channel 300C2 at Los Ybanez, Texas, and to modify the license of Station KYMI–FM accordingly. *See* Supplemental Information, *infra.*

DATES: Comments must be filed on or before August 31, 1994, and reply comments on or before September 18, 1994.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Wells King, Esq., Haley, Bader & Potts, 4340 North Fairfax Drive, Suite 900, Arlington, Virginia 22203–1633 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94–72, adopted June 23, 1994, and released July 8, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Channel 300C1 and Channel 253C2 can be allotted to Odessa and Los Ybanez, Texas, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 300C1 can be allotted to Odessa without the imposition of a site restriction. The coordinates for Channel 300C1 are 31–51–30 and 102–22–30. Channel 253C2 can be allotted to Los Ybanez at the transmitter site specified in Station KYMI–FM's license. The coordinates for Channel 253C2 are 32–43–22 and 102–01–50. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 300C1 at Odessa or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. Furthermore, since Odessa and Los Ybanez are located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence by the Mexican government has been solicited.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–17035 Filed 7–13–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–79, RM–8493]

Radio Broadcasting Services; Pine Hill, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by R.J. Miller, requesting the allotment of FM Channel 244A to Pine Hill, Alabama, as that community's first local aural transmission service. Coordinates used for this proposal are North Latitude 32–01–38 and West Longitude 87–37–23.

DATES: Comments must be filed on or before September 1, 1994, and reply comments on or before September 16, 1994.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: R.J. Miller, Route 1, Box 242, Letohatchee, AL 36047.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94–79, adopted June 29, 1994, and released July 11, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor's, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public school note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–17078 Filed 7–13–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–57, RM–8467]

Radio Broadcasting Services; Sanger and Sherman, TX

AGENCY: Federal Communications Commission.

ACTION: Proposal rule.

SUMMARY: The Commission requests comments on a petition filed by Harmon G. Husbands and Durant Broadcasting Corporation, seeking the substitution of Channel 281C3 for Channel 281A at Sherman, Texas, the reallotment of Channel 281C3 from Sherman to Sanger, Texas, and the modification of Station KWSM–FM's license to specify Sanger as the station's community of license. Channel 281C3 can be allotted to Sanger in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.3 kilometers (6.4 miles) northwest. The coordinates for Channel 281C3 are 33–25–10 and 97–15–28. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 281C3 at Sanger or require the petitioners to demonstrate the

availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before September 1, 1994, and reply comments on or before September 16, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard M. Riehl, Esq., Haley, Bader & Potts, 4350 North Fairfax Drive, Suite 900, Arlington, Virginia 22203–1633 (Counsel for petitioners).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94–57, adopted June 7, 1994, and released July 11, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–17079 Filed 7–13–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 209 and 252

Defense Federal Acquisition Regulation Supplement; Debarment and Suspension

AGENCY: Department of Defense.

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulations (DAR) Council is proposing to amend the Defense Federal Acquisition Regulation Supplement to add restrictions on placing orders against indefinite quantity contracts and Federal supply schedule contracts in instances in which the contractor has been debarred, suspended, or proposed for debarment.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before September 12, 1994, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Mrs. Linda Holcombe, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 604–5971. Please cite DFARS Case 93–D018 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mrs. Linda Holcombe, (703) 604–5929.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule is intended to address issues raised by the General Accounting Office in a February 1987 report on debarment and suspension that identified improvements needed to debarment and suspension procedures. One recommendation in that report was to clarify that under certain types of contracts, agencies are not required to place orders for supplies with a debarred or suspended contractor. The proposed rule adds restrictions on placing orders against indefinite quantity contracts and schedule contracts and the exercise of options under contracts, when the contractor was debarred, suspended, or proposed for debarment.

B. Regulatory Flexibility Act

The proposed rule is not expected to 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 it adds restrictions which were already discretionary under the Federal Acquisition Regulation (FAR). The FAR currently permits discontinuation of current contracts or subcontracts in existence at the time the contractor was debarred, suspended, or proposed for debarment when directed by the acquiring agency's head or a designee. The proposed rule removes the requirement for this direction for the Department of Defense. No new requirements are being imposed on the public. An initial Regulatory Flexibility Analysis has therefore not been performed. The proposed rule applies to both large and small businesses. Comments are invited from small businesses and other interested parties. Comments from small entities will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite DFARS Case 93–D018 in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose reporting or recordkeeping requirements which require the approval of the OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 209

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 209 is proposed to be amended as follows:

1. The authority citation for 48 CFR part 209 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR part 1.

PART 209–CONTRACTOR QUALIFICATIONS

2. Section 209.405–1 is added to read as follows:

§ 209.405–1 Continuation of current contracts.

(a) Unless the agency head makes a written determination that a compelling reason exists to do so, ordering activities shall not—

(i) Place orders exceeding the guaranteed minimum under indefinite quantity contracts; or

(ii) When the agency is an optional user, place orders against Federal supply schedule contracts.

(b) This includes exercise of options.

[FR Doc. 94–17094 Filed 7–13–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC19

Endangered and Threatened Wildlife and Plants; Proposed Rule to List Alaska Breeding Population of the Steller's Eider

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the Alaska breeding population of the Steller's eider (*Polysticta stelleri*) as threatened pursuant to the Endangered Species Act of 1973, as amended. Critical habitat is not being proposed at this time.

DATES: Comments from all interested parties relating to this proposal must be received by November 14, 1994. Public hearing requests relating to the proposed rule must be received by September 12, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Fairbanks Ecological Services Field Office, Endangered Species, U.S. Fish and Wildlife Service, 1412 Airport Way, Fairbanks, Alaska 99701, telephone (907) 456–0427 or facsimile (907) 456–0346. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Skip Ambrose, Endangered Species Specialist, at the above address (telephone 907/456–0427).

SUPPLEMENTARY INFORMATION:

Petition Background

On December 10, 1990, the Service received a petition from Mr. James G. King of Juneau, Alaska, dated December 1, 1990, to list the Steller's eider as endangered throughout its range and to designate critical habitat on the Yukon Delta National Wildlife Refuge and the National Petroleum Reserve in Alaska. Pursuant to Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), the Service determined on May 8, 1992, that listing the Steller's eider was warranted, but precluded by listing actions for higher priority species.

The Service completed the 1993 annual status review on Steller's eiders in August 1993 (Quakenbush and Cochrane 1993) and concluded that current information does not support listing range-wide, but does support listing the Alaska breeding population. This conclusion was based on the following reasons: (1) The number of Steller's eiders that breed in Alaska has declined during the last few decades; (2) the species' nesting range in Alaska has constricted substantially; and (3) the remaining breeding population in northern Alaska may be vulnerable to extirpation.

This proposal to list Steller's eiders that breed in Alaska is based on various documents, including published and unpublished studies, agency documents, and literature syntheses. Researchers, wildlife managers, and local residents familiar with the species were interviewed. This proposed rule constitutes the final finding for the petitioned action, in accordance with Section 4 of the Act.

Species Description

The Steller's eider is the smallest of four eider species. It was first described by Pallas in 1769 as *Anas stelleri* and was subsequently grouped with the other eiders in the genus *Somateria*. Steller's eider is now recognized as a monotypic genus, *Polysticta stelleri* (American Ornithologist's Union 1983).

The adult male Steller's eider has a white head with a greenish tuft and a small black eye patch, a black back, white shoulders, and a chestnut breast and belly with a black spot on the side. The Inupiat Eskimo name for this eider is Iginikkauktuk or "the bird that sat in the campfire," referring to the burnt appearance of the brown breast and belly of the male. The Yup'ik Eskimo name is Anarnissaguq. Adult females and juveniles are mottled dark brown. Both adult sexes have a blue wing speculum with a white border.

Steller's eiders are marine, diving ducks that feed primarily on mollusks and crustaceans by diving and dabbling in shallow water habitats (Petersen 1980). Principal foods of wintering Steller's eiders include the common blue mussel (*Mytilus edulis*) and the sand-hopper (*Anisogammarus pugettensis*) (Petersen 1980, Troy and Johnson 1987). During the breeding season, they feed on insects, primarily chironomid larvae, and plant materials in addition to crustaceans and mollusks (Cottam 1939, Quakenbush and Cochrane 1993). Steller's eiders nest on tundra, adjacent to shallow ponds or within drained lake basins (King and Dau 1981, Flint et al. 1984, Quakenbush and Cochrane 1993).

The current breeding range of Steller's eiders includes the arctic coastal plain in northern Alaska, the arctic coast in Russia from the Chukotski Peninsula west to the Kheta River (American Ornithologist's Union 1983), and the western Siberian coast at Taimyr, Gaydan and Yamal peninsulas (Yesou and Lappo 1992). Most of the world's Steller's eiders winter along the Alaska Peninsula from the eastern Aleutian Islands to southern Cook Inlet in shallow, near-shore marine waters. Steller's eiders wander occasionally to the western Aleutian Islands and along the Pacific coast south to California (American Ornithologist's Union 1983). Wintering areas are also known in Russia, the Baltic States and Scandinavia (Dement'ev and Gladkov 1967, Frantzen 1985, Petraitis 1991, Frantzen and Henricksen 1992).

In Alaska, the breeding range of Steller's eiders formerly extended discontinuously from the eastern Aleutian Islands, the Alaska Peninsula, around the west and northern coasts of Alaska to the Yukon Territory border (Murie 1959, American Ornithologist's Union 1983; Kertell 1991). Historical breeding records exist from the 1800's for southwestern Alaska at Unalaska Island, the southern Alaska Peninsula, Seward Peninsula, and St. Lawrence Island (Gabrielson and Lincoln 1959, Fay and Cade 1959, Murie 1959, Kessel 1989). In Alaska, Steller's eiders now breed exclusively on the arctic coastal plain, migrate south in the fall, and probably molt along the Alaska coast from Nunivak Island to Cold Bay.

Species Status, World-wide

In the 1960's, the world-wide population of Steller's eiders was estimated to be up to 400,000 by Palmer (1976) and 500,000 by Uspenski (1972 cited by Kertell 1991). Another estimate suggested that as many as 400,000 Steller's eiders wintered in Alaska alone (King and Dau 1981). Recent estimates, however, indicate that as few as 150,000–200,000 Steller's eiders currently remain range-wide. This recent estimate is based on a count of 138,000 individuals wintering in Alaska in 1992 (Bill Larned, U.S. Fish and Wildlife Service, pers. comm., *in litt.*, 1992); Kistchinski's (1973) estimate of 15,000–20,000 wintering in eastern Russia in the early 1970's; and 10,000–20,000 that winter in Norway (Frantzen and Henricksen 1992).

The decline of approximately 50 percent in the world-wide population is further supported by two long-term data sets from Alaska. Estimates of Steller's eiders on the Alaska Peninsula, based on numbers observed during fall emperor goose (*Philacte canagica*) surveys, have declined from approximately 200,000 in 1965 (Jones

1965) to a maximum count of about 126,000 between 1980 and 1991 (Rod King, U.S. Fish and Wildlife Service, pers. comm., *in litt*, 1993). Additional population trend data are available from Izembek Lagoon. Aerial waterfowl surveys at Izembek Lagoon from the period 1986–1990, when compared to surveys during the period 1975–1980, show a decline in the number of Steller's eiders seen of more than 50 percent (Kertell 1991).

Species Status, Western Alaska

Steller's eiders were locally common breeders at several central Yukon-Kuskokwim Delta sites during biological surveys before the 1950's (Murie 1924, Conover 1926, Brandt 1943). Kessel *et al.* (1964), Johnsgard (1964), and Holmes and Black (1973) recorded no Steller's eiders at some of the same areas during subsequent surveys in the 1950's and 1960's, indicating the population declined between the 1920's and 1960's. Kertell (1991) estimated that 3,500 pairs may have nested on the Delta in the 1950's and early 1960's; however, the historical population may have been greater since the number of pairs apparently declined before 1950. No nests have been located on the Yukon-Kuskokwim Delta since 1975 despite extensive waterfowl research in suitable habitats (Kertell 1991).

No Steller's eiders were seen in a 1992 aerial survey of suitable nesting habitat along the entire western Alaska coast, including former nesting range on the Yukon-Kuskokwim Delta and Seward Peninsula, and from Icy Cape to Barrow (Larned *et al.* 1993). In 1993, no Steller's eiders were observed during waterfowl surveys on the Seward Peninsula and along the coast north to Point Hope (Greg Balogh, U.S. Fish & Wildlife Service, pers. comm., 1993). Only two Steller's eiders have been seen during intensive waterfowl breeding pair surveys flown annually over the Yukon-Kuskokwim Delta coast since 1988 (William Butler, Jr., U.S. Fish and Wildlife Service, pers. comm., *in litt.*, 1993).

Species Status, Northern Alaska

Accurate historical data are lacking for northern Alaska. Miscellaneous observations indicate that Steller's eiders nested in suitable habitats across the North Slope from Wainwright to Demarcation Point (Gabrielson and Lincoln 1959, Palmer 1976, Bellrose 1980, North 1990, Kertell 1991). Native residents report that Steller's eiders were common breeders in the 1930's on the central North Slope at the Colville Delta and on the eastern North Slope at Camden Bay (P. Sovalik, cited by Myres 1958; Bill Patkotak, pers. comm., 1993). However, Anderson (cited by Bailey 1948) considered it "a rare straggler east of Barrow."

Steller's eiders were observed during waterfowl surveys flown over the arctic coastal plain in 1986–93, but only in small numbers and all were seen west of the Colville River (Brackney and King 1993; Rod King, pers. comm., 1993). Aerial surveys for eiders were flown over the arctic coastal plain in 1992 and 1993 but very few Steller's eiders were seen (Larned *et al.* 1993; Bill Larned, pers. comm., 1993). A female Steller's eider with young was seen along the Colville River in 1987 (unpublished Service data) and several adults were seen in the Prudhoe Bay area in the 1980's and in 1993 (Declan Troy, Troy Ecological Research Assoc., pers. comm., 1993), indicating that birds still visit these areas.

Recent Steller's eider population size estimates for the North Slope are based on a few sightings during aerial waterfowl breeding pair surveys. No Steller's eiders were observed in 1986–88 (Brackney and King 1993). Population estimates ranged from about 2,000 to 7,000 individuals from 1989–1992 (Brackney and King 1993). Due to large standard error in the visibility correction factor for Steller's eiders, the confidence intervals for these estimates are very wide (Rod King, pers. comm., 1993). As a result, these estimates are very imprecise.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Steller's eider (*Polysticta stelleri*) Alaska breeding population are as follows:

A. Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Much of the former Steller's eider breeding range in western Alaska is within the Yukon Delta National Wildlife Refuge and is protected from major development. However, some of the former breeding range is on Alaskan Native land where protection is limited. The current breeding range in northern Alaska is largely contained within the National Petroleum Reserve—Alaska (NPR–A), which was set aside for oil and gas resource development. The coastal area in NPR–A may be leased for oil development, and leasing and development of other coastal areas is likely. Potential impacts of oil and gas exploration and development on nesting Steller's eiders are not known.

The only known regularly occupied nesting area of Steller's eiders in Alaska is near Barrow, the largest Native village in Alaska. The human population of Barrow increased 58 percent in 10 years, from 2267 in 1980 to 3469 in 1990 (Harcharek 1992), and village expansion is likely in the near future. Housing developments, gas field access and development, and conveyance of land from the Ukpeagvik Inupiat Corporation to shareholders could lead to nesting habitat loss and disturbance to nesting birds.

Wintering habitat is largely undisturbed and substantial portions are protected from development within National Wildlife Refuges, State Game Refuges, or State Critical Habitat Areas. In winter, Steller's eiders concentrate in sheltered bays and lagoons. These shallow and biologically productive waters are vulnerable to oil spills and other pollution from vessels. Steller's eiders often feed in large, dense rafts that dive and surface simultaneously. Therefore, an oil spill could adversely affect a large portion of the world's Steller's eider population. Marine traffic through the Aleutian Islands and along the Alaska Peninsula coast could result in pollution from bilge waste pumping and vessel groundings. Wintering birds may also be disturbed by commercial and recreational boats traveling through protected lagoons near the Alaska Peninsula, Kodiak or Cook Inlet communities.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Due to small numbers taken, overutilization is unlikely to have caused the decline of Alaska Steller's eiders or their extirpation from the Yukon-Kuskokwim Delta. In the past, some Steller's eider eggs were collected in Alaska for avicultural exhibition and trade. Although the Service has received requests for avicultural collecting of Steller's eiders, no permits have been issued since 1987 (James Sheridan, U.S. Fish and Wildlife Service, pers. comm., 1993).

A few dozen Steller's eiders were taken annually before 1991 by collectors or incidental to other sport waterfowl hunting on the Alaska Peninsula and Kodiak and Nunivak islands (Robin West, U.S. Fish and Wildlife Service, pers. comm., 1991). The sport hunting

season was closed in 1991. An undetermined number were taken illegally on Kodiak Island for the taxidermy trade in 1991 (Stephen Tuttle, U.S. Fish and Wildlife Service, pers. comm., 1991).

C. Disease or Predation

Disease is not known to be affecting the population at present, but small, restricted population size increases the risk that future disease outbreaks could decimate the nesting population.

Natural predators of Steller's eiders in Alaska include raptors, gulls, jaegers, ravens, and foxes. These predators have not been shown to significantly affect Steller's eiders at the population level. However, arctic foxes (*Alopex lagopus*) may have contributed to the extirpation of Steller's eiders on the Yukon-Kuskokwim Delta. During the 1960's, major goose populations decreased substantially in this area and foxes may have switched to alternative summer food supplies including Steller's eiders (Kertell 1991).

Some predators may be increasing in number as a result of human habitation and development. Predators and scavengers such as foxes, gulls, and ravens have increased in number due to the availability of refuse and handouts (Paul O'Neil, Animal and Plant Health Inspection Service, Animal Damage Control, pers. comm., 1993). These animals are effective predators of eider eggs, young, and adults. Increased predation is likely to be exaggerated near communities where refuse is available and could significantly affect eiders in these areas.

D. The Inadequacy of Existing Regulatory Mechanisms

Steller's eider hunting is regulated under authority of the Migratory Bird Treaty Act (16 U.S.C. 703–711). The U.S. sport hunting season on Steller's eiders has been closed since 1991 as a result of depressed population numbers. Historically, Alaskan Natives hunted Steller's eiders and their eggs for food, but in far fewer numbers than the three, larger *Somateria* eider species (Klein 1966, Nelson 1969, Johnson 1971). Steller's eiders are not a preferred species for subsistence hunting (Quakenbush and Cochrane 1993). In recent years, a few Steller's eiders were reported taken for subsistence at various villages (Braund *et al.* 1989; Wentworth 1993; James Sheridan, pers. comm., 1993). Many villages along the Steller's eider migration route have not been surveyed, therefore, the total annual subsistence harvest is unknown (Cynthia Wentworth, U.S. Fish and Wildlife Service, pers. comm., 1993). Because of their far greater abundance along migration routes, most subsistence take is probably of Steller's eiders that nest in Russia.

Spring and summer subsistence hunting of eiders in Alaska is currently in violation of the Migratory Bird Treaty Act, which prohibits hunting for most migratory birds between March 10 and September 1. The Service recognizes, however, that residents of certain rural areas in Alaska depend on waterfowl as a customary and traditional source of food.

While not an important subsistence species, Steller's eiders are occasionally killed incidental to hunting of more important subsistence waterfowl species. Although apparently limited, this take may threaten the small breeding segment near Barrow.

The Service has initiated an information and education program to gain support in Native villages for protection of Steller's eider and spectacled eiders (*Somateria spectabilis*).

E. Other Natural or Manmade Factors Affecting its Continued Existence

Some natural or manmade factor(s), currently unknown, is causing a decline in the number of Steller's eiders and a contraction of their breeding range in Alaska.

Interspecific competition on the wintering range may be affecting Steller's eiders. Nearshore benthic communities have been restructured by feeding pressure from increasing sea otter (*Enhydra lutris*) populations (Kvitek *et al.* 1992), with documented effects on local populations of common eiders (*Somateria mollissima*) and scoters (*Melanitta* sp.) in the Gulf of Alaska and Aleutian Islands (David Irons, U.S. Fish and Wildlife Service, pers. comm., 1991).

Summary

Steller's eiders may have historically numbered 400,000–500,000 individuals world-wide (Palmer 1976, Uspenski 1972 cited by Kertell 1991). Current estimates are 150,000 to 200,000, and most of these birds nest in Russia and winter in Alaska. In North America, Steller's eiders no longer nest in historical breeding range on the Yukon-Kuskokwim Delta or in other western Alaska habitats or the eastern North Slope. Current Alaska nesting range is small and restricted to northern Alaska. Causes for the decline world-wide and the reduction in the Alaskan breeding population are not known.

Steller's eiders that nest on Alaska's North Slope are the only breeding population in North America and the only breeding population within United States jurisdiction. Environmental conditions in the arctic are severe and variable. Low numbers and restricted breeding range place populations at risk from natural and human-induced factors (Kertell 1991). Major storms, predation or disturbance could severely deplete Steller's eiders numbers on the North Slope and precipitate extirpation of this remnant population.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Steller's eider Alaska breeding population as threatened. The small, reduced population that nests within a restricted range on the northwestern North Slope warrants threatened status. While probably not in immediate danger of extinction, Steller's eiders that breed in Alaska could become endangered in the foreseeable future if the population declines further.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary proposes critical habitat at the time a species is proposed to be listed as endangered or threatened. The prudence of designation is decided on the basis of net conservation benefit to the species concerned.

Regulations at 50 CFR 424.22(a)(2) specify that designation of critical habitat is not prudent when such designation would not be beneficial to the species. Since habitat requirements for recovery and threats to the Steller's eider have not been identified, designation of current or former Steller's eider breeding and wintering grounds as critical habitat would not likely alleviate threats affecting the decline of the species and could actually impair recovery efforts by implying in a misleading way that threats are centered on breeding and/or wintering habitat. Any designation of former breeding habitat would also be subject to great uncertainty concerning its historical contribution to maintenance of the population or its possible role in restoration. Conservation efforts for the species would address a wide variety of federally funded or authorized activities (summarized in the **Available Conservation Measures** section of this proposed rule) that affect the quality of habitat available to the species.

The Service therefore finds that designation of critical habitat for the Steller's eider would not be prudent at

this time because it would not provide a net conservation benefit to the species. However, if new information indicates that designation of critical habitat may be prudent, the Service will consider proposing critical habitat at that time.

Available Conservation Measures

Conservation measures provided for species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State and local governments and private organizations, groups and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its designated critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If an action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service anticipates consultation with the U.S. Army Corps of Engineers and the U.S. Department of Transportation to avoid impacts to Steller's eiders from wetland fill permitting and other activities on the North Slope. Consultations to identify potential effects on Steller's eiders are also expected with the U.S. Bureau of Land Management for NPR–A lands issues, the Minerals Management Service for outer continental shelf oil and gas lease sales, and National Marine Fisheries Service for commercial fishing regulations. Reasonable and prudent alternatives may be implemented for Federally-funded or permitted projects to avoid causing jeopardy to the Alaska breeding population of Steller's eiders.

The Service will convene a recovery team and develop a recovery plan for the Steller's eider promptly upon listing. An information and education program to gain public support for the protection of Steller's eiders has already been initiated and will be carried out cooperatively with affected communities. The recovery plan will establish recovery goals and set recovery task priorities.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Section 10(e) of the Act exempts any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska, or any non-native permanent resident of an Alaskan Native village, from the aforementioned prohibitions on taking any endangered or threatened species if such taking is primarily for subsistence purposes. Non-edible by-products of species taken pursuant to section 10(e) may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that provisions of this subsection shall not apply to any non-native resident of an Alaskan Native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

Regulations prohibiting or limiting subsistence harvest by any Indian, Aleut, Eskimo, or non-native permanent resident of an Alaskan Native village may be established pursuant to section 10(e)(4) of the Act if the Secretary determines that such taking materially and negatively affects the threatened or endangered species and holds hearings on the proposed harvest regulations in the affected judicial districts of Alaska. The Service is not currently promulgating special regulations for Steller's eiders under section 10(e)(4) of the Act, but may do so if appropriate.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are in 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, permits are also available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Such permit applications are not expected, however, since the Steller's eider is not presently in commercial trade in the United States. For the same reason, the Service does not anticipate requesting that the Steller's eider be included under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional breeding populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received

within 60 days of the date of publication of this proposal. Such requests must be made in writing (includes facsimile) and addressed to Skip Ambrose (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all the references cited herein, as well as others, is available upon request from the Fairbanks Ecological Services Field Office (see ADDRESSES section).

Authors

The primary authors of this notice are Skip Ambrose, Janey Fadely, Ted Swem, and Lori Quakenbush (see ADDRESSES section), and Jean Fitts Cochrane, Anchorage Ecological Services, 605 West 4th Avenue, Anchorage, Alaska, 99501 (907) 271–2778.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under Birds, to the listing of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Eider, Steller's	*Polysticta stelleri*	U.S.A. (AK), Russia	U.S.A. (AK breeding population only).	T		NA	NA
*	*	*	*	*	*		*

Dated: July 5, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–17132 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–55–P

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50 CFR Part 17

RIN 1018–AC64

Endangered and Threatened Wildlife and Plants; Proposal to List the Cumberland Elktoe, Oyster Mussel, Cumberlandian Combshell, Purple Bean, and Rough Rabbitsfoot as Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list five freshwater mussels (Cumberland elktoe (*Alasmidonta atropurpurea*), oyster mussel (*Epioblasma capsaeformis*), Cumberlandian combshell (*Epioblasma brevidens*), purple bean (*Villosa perpurpurea*), and rough rabbitsfoot (*Quadrula cylindrica strigillata*)) as endangered species under the Endangered Species Act of 1973, as amended (Act). All five species have undergone significant reductions in range and now exist as relatively small, isolated populations. The Cumberland elktoe exists in very localized portions of the Cumberland River system in Kentucky and Tennessee. The oyster mussel and Cumberland combshell persist at extremely low numbers in portions of the Cumberland and Tennessee River basins in Kentucky, Tennessee, and Virginia. The purple bean and rough rabbitsfoot currently survive in a few river reaches in the Tennessee River system in Tennessee and Virginia. These species were historically eliminated from much of their range by impoundments. Presently, they and their habitat are impacted by deteriorated water quality, primarily resulting from poor land use practices.

DATES: Comments from all interested parties must be received by September 12, 1994. Public hearing requests must be received by August 29, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195). Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above address or telephone (704/665–1195, Ext. 228).

SUPPLEMENTARY INFORMATION:

Background

Cumberland Elktoe (*Alasmidonta Atropurpurea*)

The Cumberland elktoe, described by Rafinesque (1831), has a thin but not fragile shell. The shell's surface is smooth, somewhat shiny, and covered with greenish rays. Young specimens have a yellowish-brown shell and the shells of adults are generally black. The inside of the shell is shiny with a white, bluish-white, or sometimes peach or salmon color. (See Clarke (1981) for a more complete description of species.)

The Cumberland elktoe is endemic to the Cumberland River system in Tennessee and Kentucky and is considered endangered in the State of

Kentucky (Kentucky State Nature Preserve Commission 1991). Historic records exist from the Cumberland River and from Cumberland River tributaries entering from the south between the Big South Fork Cumberland River upstream to Cumberland Falls. Specimens have also been taken from Marsh Creek above Cumberland Falls. Old records of a related species, *Alasmidonta marginata*, exist from other creeks above Cumberland Falls; and there is speculation that these specimens were probably the Cumberland elktoe (Gordon 1991). Because the area above the falls has been severely impacted by coal mining, any populations of *A. atropurpurea* that might have existed there were likely lost (Gordon 1991). A record of one fresh dead specimen exists from the Collins River, Grundy County, Tennessee. However, extensive searches of the collection site and other sites in the Collins River and adjacent rivers have failed to find another specimen. If the species did exist in the Collins River, it has likely been extirpated.

Presently, three populations of the Cumberland elktoe are known to persist. The species survives in the middle sections of Rock Creek, McCreary County, Kentucky; the upper portions of the Big South Fork Cumberland River basin in McCreary County, Kentucky, and Scott, Fentress, and Morgan Counties, Tennessee; and in Marsh Creek, McCreary County, Kentucky (Gordon 1991).

Any Cumberland elktoe populations that may have existed in the main stem of the Cumberland River were likely lost when Wolf Creek Dam was completed. Other tributary populations were likely lost due to the impacts of coal mining, pollution, and spills from oil wells. The upper Big South Fork basin population is threatened by coal mining and could be threatened by an impoundment that is under consideration for a tributary (the North Prong of Clear Fork Creek) in the basin. The Marsh Creek population has been adversely affected and is still threatened by spills from oil wells. The Rock Creek population could be threatened by logging. All three populations, especially Rock Creek and Marsh Creek, are restricted to such short stream reaches that they could be eliminated by toxic chemical spills.

Oyster Mussel (*Epioblasma Capsaeformis*)

The oyster mussel (Lea 1834) has a dull to sub-shiny yellowish to green colored shell with numerous narrow dark green rays. The shells of females are slightly inflated and quite thin towards the shell's posterior margin. The inside of the shell is whitish to bluish-white in color. (See Johnson (1978) for a more complete description of species.) The species is considered endangered in the States of Kentucky (Kentucky State Nature Preserve Commission 1991) and Virginia (Neves 1991; Sue Bruenderman, Virginia Department of Game and Inland Fisheries, *in litt.*, 1992).

This species historically occurred throughout much of the Cumberlandian region of the Tennessee and Cumberland River drainages in Alabama, Kentucky, Tennessee, and Virginia (Gordon 1991), and Ortmann (1918) considered the species to be very abundant in the upper Tennessee River drainage.

Currently, within the Cumberland River, the oyster mussel survives as a very rare component of the benthic community in Buck Creek, Pulaski County, Kentucky; and it still survives in a few miles of the Big South Fork Cumberland River, McCreary County, Kentucky, and Scott County, Tennessee (Bakaletz 1991). Within the Tennessee River system, only small populations survive at a few sites in the Powell River, Lee County, Virginia and Hancock and Claiborne Counties, Tennessee; in the Clinch River system, Scott County, Virginia, and Hancock County, Tennessee; Copper Creek (a Clinch River tributary), Scott County, Virginia; and Duck River, Marshall County, Tennessee. Although not seen in recent years, the species may still persist at extremely low numbers in the lower Nolichucky River, Cocke and Hamblem Counties, Tennessee, and in the Little Pigeon River, Sevier County, Tennessee (Gordon 1991).

Much of the oyster mussel's historic range has been impounded by the Tennessee Valley Authority (TVA) and the U.S. Army Corps of Engineers (Corps). Other populations were lost due to various forms of pollution and siltation. The present populations are threatened by the adverse impacts of coal mining, poor land use practices, and pollution, primarily from non-point sources. The Duck River population could be lost if the proposed Columbia Dam on the Duck River at Columbia, Tennessee, is completed as presently proposed. All the known populations are small and could be decimated by toxic chemical spills.

Cumberlandian Combshell (*Epioblasma Brevidens*)

The Cumberlandian combshell (Lea 1831) has a thick, solid shell with a smooth to cloth-like outer surface. It is yellow to tawny-brown in color with narrow green broken rays. The inside of the shell is white. The shells of females are inflated with serrated teeth-like structures along a portion of the shell margin. (See Johnson (1978) for a more complete description of species.) The species is considered endangered in the States of Kentucky (Kentucky State Nature Preserve Commission 1991) and Virginia (Neves 1991; Bruenderman, *in litt.*, 1992) and a species of special concern in Tennessee (Bogan and Parmalee 1983).

The Cumberlandian combshell historically existed throughout much of the Cumberlandian portion of the Tennessee and Cumberland River systems in Alabama, Kentucky, Tennessee, and Virginia (Gordon 1991). Presently, it survives in the Cumberland River basin, as a very rare component of the benthic community in Buck Creek, Pulaski County, Kentucky, and in a few miles of the Big South Fork Cumberland River, McCreary County, Kentucky, and Scott County, Tennessee (Bakaletz 1991). A few old, non-reproducing individuals may also survive in Old Hickory Reservoir on the Cumberland River, Smith County, Tennessee (Gordon 1991).

Within the Tennessee River basin, the species still survives in very low numbers in the Powell and Clinch Rivers, Lee and Scott Counties, Virginia; and Claiborne and Hancock Counties, Tennessee. The Clinch and Powell River populations are very small and in decline (Neves 1991; Richard Neves, Virginia Cooperative Fish and Wildlife Research Unit, personal communication, 1991).

Many of the Cumberlandian combshell's historic populations were lost when impoundments were constructed on the Tennessee and Cumberland Rivers by TVA and the Corps. Other populations were lost due to various forms of pollution and siltation. The present populations are threatened by the adverse impacts of coal mining, poor land use practices, and pollution, primarily from non-point sources. All the known populations are small and could be decimated by toxic chemical spills.

Purple Bean (*Villosa Perpurpurea*)

The purple bean mussel (Lea 1861) has a small to medium-sized shell. The shell's outer surface is usually dark brown to black with numerous closely-spaced fine green rays. The inside of the shell is purple, but the purple may fade to white in dead specimens. (See Bogan and Parmalee (1983) for a more complete description of species.) The species is considered endangered in Tennessee (Bogan and Parmalee 1983) and Virginia (Neves 1991; and Bruenderman, *in litt.*, 1992).

The purple bean historically occupied the upper Tennessee River basin in Tennessee and Virginia upstream of the confluence of the Clinch River (Gordon 1991). Ortmann (1918) considered the species "not rare" in Virginia. Presently, it survives in limited numbers at a few locations in the upper Clinch River, Scott, Tazwell, and Russell Counties, Virginia; Copper Creek (a Clinch River tributary), Scott County, Virginia; Obed River, Cumberland and Morgan Counties, Tennessee; Emory River just below its confluence with the Obed River, Morgan County, Tennessee; and Beech Creek, Hawkins County, Tennessee (Gordon 1991).

The purple bean populations in the lower Clinch, Powell, and Holston River were extirpated by reservoirs. The decline of the species throughout the rest of its range was likely due to the adverse impacts of coal mining, poor land use practices, and pollution, primarily from non-point sources. The population centers that remain are so limited that they are very vulnerable to toxic chemical spills.

Rough Rabbitsfoot (*Quadrula Cylindrica Strigillata*)

The rough rabbitsfoot (Wright 1898) has an elongated heavy, rough textured, yellow to greenish colored shell. The shell's surface is covered with green rays, blotches, and chevron patterns. The inside of the shell is silvery to white with an iridescence in the posterior area of the shell. (See Bogan and Parmalee (1983) for a more complete species' description.) The species is considered threatened in Virginia (Neves 1991; Bruenderman, *in litt.*, 1992) and a species of special concern in Tennessee (Bogan and Parmalee 1983).

Historically, this mussel was restricted to the upper Tennessee River basin in the Clinch, Powell, and Holston River systems (Gordon 1991). It still survives in all three of these systems, but only in limited areas and at low population levels. Populations persist in the Powell River, Lee County, Virginia; and Claiborne and Hancock Counties, Tennessee; Clinch River, Scott County, Virginia, and Hancock County, Tennessee; Copper Creek (a Clinch River tributary), Scott County, Virginia; and North Fork Holston River, Washington County, Virginia (Gordon 1991).

The rough rabbitsfoot populations in the lower Clinch, Powell, and Holston River systems were extirpated by reservoirs. The decline of the species throughout the rest of its range was likely due to the adverse impacts of coal mining, poor land use practices, and pollution, primarily from non-point sources. The population centers that remain are so limited that they are vulnerable to extirpation from toxic chemical spills.

In the Service's notice of review for animal candidates, published in the Federal Register of November 21, 1991 (56 FR 58804), the Cumberland elktoe, oyster mussel, Cumberlandian combshell, purple bean, and rough rabbitsfoot are included as category 2 species. A category 2 species is one that is being considered for possible addition to the Federal List of Endangered and Threatened Wildlife. These mussels were approved for elevation to category 1 candidate status by the Service on August 30, 1993. A category 1 species is a species for which the Service has sufficient information to propose it for protection under the Act. On August 25, 1992, the Service notified, by mail (129 letters), potentially affected Federal and State agencies and local governments within the species' present range, and interested individuals that a status review of the above mentioned five mussels and the slabside pearlymussel (*Lexingtonia dolabelloides*) was being conducted. (The slabside pearlymussel has not been included in this proposed rule. Additional populations of this species were discovered and further evaluation is needed before a decision can be made regarding the species' need for Federal protection.)

Seven agencies responded to the August 25, 1992, notification. The U.S. Soil Conservation Service stated: "It is not anticipated that any planned or current activities will adversely affect these species or their habitat." The Kentucky State Nature Preserve Commission, the Kentucky Department of Environmental Protection, Tennessee Wildlife Resources Agency, Virginia Department of Conservation and Recreation, and Virginia Department of Game and Inland Fisheries provided information on the decline and status of the species in their States.

The Duck River Agency (DRA) provided comments on the status of the oyster mussel in the Duck River. It stated that as the Duck River population of the oyster mussel is extremely small, it is believed highly unlikely that the stream supports a viable population of *E. capsaeformis*. In contrast to DRA's statement, Don Hubbs (Tennessee Wildlife Resources Agency, *in litt.*, 1992) stated that fresh dead oyster mussel individuals (from young and older cohorts) were not uncommon in muskrat middens on the Duck River in Marshall County, Tennessee. The Service, however, currently has insufficient information to judge the species' long-term viability either in the Duck River or on a range-wide basis.

The DRA took issue with the Service's statement in the notification that the proposed Columbia Dam on the Duck River could eliminate the oyster mussel from the Duck River. It stated that current project alternatives under consideration by the DRA and TVA could result in a project that would flood less that one third of the area and would enhance the future viability of the population segment above the pool. The Service agrees that a smaller Columbia Dam pool would reduce the amount of the oyster mussel population lost to the direct effects of the dam. However, the details of these Columbia Dam alternatives have not been provided to the Service. Thus, the Service stands by its statement that the Columbia Dam project as presently planned could eliminate the oyster mussel from the Duck River.

The DRA commented that statements in the mussel species accounts (Gordon 1991) that were used as an information source to prepare the August 25, 1992, notification, contained language that appeared to indicate that the Service had already made a decision to list the species prior to receiving any comments from the notification. The Service agrees that the species accounts, which were prepared by a non-Service biologist under contract to the Service, contain language regarding the need to reverse the species' decline as a means to preserve and recover the mussels. However, these statements, made by a Service contractor, do not represent a predecisional statement by the Service. Statements in the species accounts will be considered along with all presently available information on these species, as well as information obtained through the notification and this proposed rule when making the final decision regarding the status of the species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Cumberland elktoe (*Alasmidonta atropurpurea*), oyster mussel (*Epioblasma capsaeformis*), Cumberlandian combshell (*Epioblasma brevidens*), purple bean (*Villosa perpurpurea*), and rough rabbitsfoot

(*Quadrula cylindrica strigillata*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Mussel populations throughout the Central and Eastern United States have been declining since modern civilization began to significantly alter aquatic habitats. The Ohio River drainage, which includes the Tennessee and Cumberland Rivers, was a center for freshwater mussel evolution and historically contained about 127 distinct mussel species and subspecies. Of this once rich mussel fauna, 11 mussels are extinct, 28 mussels are classified as Federal endangered species, and 18 others, including the 5 species covered in this proposed rule, are candidates for addition to the Federal List of Endangered and Threatened Wildlife. In less than 100 years, 44 percent of the Ohio River system's mussel fauna has either become extinct, recognized as endangered, or decimated to the point that Federal protection is being considered. No other wide-ranging faunal group in the continental United States has experienced this degree of loss within the last 100 years.

The mussel fauna in most streams of the Ohio River basin has been directly impacted by impoundments, siltation, channelization, and water pollution. Reservoir construction is the most obvious cause of the loss of mussel diversity in the basin's larger rivers. Most of the main stem of both the Tennessee and Cumberland River and many of their tributaries are impounded. For example: over 2,300 river miles or about 20 percent of the Tennessee River and its tributaries with drainage areas of 25 square miles or greater are impounded (Tennessee Valley Authority 1971). In addition to the loss of riverine habitat within impoundments, most impoundments also seriously alter downstream aquatic habitat; and mussel populations upstream of reservoirs may be adversely affected by changes in the fish fauna essential to a mussel's reproductive cycle.

Coal mining related siltation and associated toxic runoff have adversely impacted many stream reaches. Numerous streams have experienced mussel and fish kills from toxic chemical spills, and poor land use practices have fouled many waters with silt. Runoff from large urban areas has degraded water and substrate quality. Because of the extent of habitat destruction, the overall aquatic faunal diversity in many of the basins' rivers has declined significantly. Because of this destruction of riverine habitat, 8 fishes and 24 mussels in the Tennessee and Cumberland River basins have already required Endangered Species Act protection, and numerous other aquatic species in these two basins are currently considered candidates for Federal listing.

The mussel fauna in the Tennessee and Cumberland Rivers has been extensively sampled, and much is known about the historic and present distribution of this rich fauna. Gordon (1991) provided an extensive review of the literature regarding the past and present ranges of the Cumberland elktoe, oyster mussel, Cumberlandian combshell, purple bean, and rough rabbitsfoot. Based on Gordon's (1991) review and personal communication with numerous Federal, State, and independent biologists, it is clear that these five mussel species have undergone significant reductions in range and that they now exist as only remnant isolated populations. (See "Background" section for a discussion of current and historic distribution and threats to the remaining populations.)

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* These five mussels are not commercially valuable; but as they are extremely rare, they could be sought by collectors. The specific areas inhabited by these species are presently unknown to the general public. As a result, their overutilization has not been a problem. However, vandalism could pose a problem, especially if specific inhabited reaches were to be revealed through the often controversial critical habitat designation process. Most stream reaches inhabited by these mussels are extremely small. Thus, populations of the species could be easily eliminated or significantly reduced using readily available toxic chemicals. Although scientific collecting is not presently identified as a threat, take by private and institutional collectors could pose a threat if left unregulated. Federal protection of these species will help to minimize illegal and inappropriate take. (See "Critical Habitat" section for a discussion of why critical habitat is not being considered for these species.)

C. *Disease and predation.* Disease occurrence in freshwater mussels is virtually unknown. However, since 1982, biologists and commercial mussel fishermen have reported extensive mussel die-offs in rivers and lakes throughout the United States. The cause(s) of many of these die-offs is unknown, but disease has been suggested as a possible factor.

Shells of all five species are often found in muskrat middens. The species are also presumably consumed by other mammals, such as raccoons and mink. While predation is not thought to be a significant threat to a healthy mussel population, Neves and Odum (1989) suggest it could limit the recovery of endangered mussel species or contribute to the local extirpation of already depleted mussel populations. Predation would be of particular concern to oyster mussel, Cumberlandian combshell, and purple bean, which exist only as extremely small, remnant populations.

D. *The inadequacy of existing regulatory mechanisms.* The States of Kentucky, Alabama, Tennessee, and Virginia prohibit the taking of fish and wildlife, including freshwater mussels, for scientific purposes without a State collecting permit. However, enforcement of this permit requirement is difficult. Also, State regulations do not generally protect these mussels from other threats. Existing authorities available to protect aquatic systems, such as the Clean Water Act, administered by the Environmental Protection Agency (EPA) and the Army Corps of Engineers, have not been fully utilized and may have led to the degradation of aquatic environments in the Southeast Region, thus resulting in a decline of aquatic species. As these mussels (Cumberland elktoe, Cumberlandian combshell, oyster mussel, purple bean, and rough rabbitsfoot) coexist with other federally listed species throughout most or all of their range, some of the habitats of these species are indirectly provided some Federal protection from Federal actions and activities through Section 7 of the Act. Federal listing will provide additional protection for all five species throughout their range by requiring Federal permits to take the species and by requiring Federal agencies to consult with the Service when activities they fund, authorize, or carry out may specifically adversely affect these species. Further, listing will require consultation with the EPA in relationship to water quality criteria, standards, and National Pollution Discharge Elimination System permits under the Clean Water Act; and implementation of actions to recover the species.

E. *Other natural or manmade factors affecting its continued existence.* The populations of these species (Cumberland elktoe, oyster mussel, Cumberlandian combshell, purple bean, and rough rabbitsfoot) are small and geographically isolated. This isolation prohibits the natural interchange of genetic material between populations, and the small population sizes reduce the reservoir of genetic variability within the populations. It is likely that

some of the populations of the Cumberland elktoe, oyster mussel, Cumberlandian combshell, purple bean and rough rabbitsfoot may be below the level required to maintain long-term genetic viability. Also, because most of the extant populations of these mussels are restricted to short river reaches, they are very vulnerable to extirpation from a single catastrophic event, such as a toxic chemical spill or a major stream channel modification. Because the populations of each species are isolated from one another because of impoundments, natural repopulation of any extirpated population is impossible without human intervention.

The invasion of the exotic zebra mussel (*Dreissena polymorpha*) into the Great Lakes poses a potential threat to the Ohio River's mussel fauna. The zebra mussel has recently been reported from the Tennessee and Cumberland Rivers, but the extent of its impact on the basin's freshwater mussels is unknown. However, zebra mussels in the Great Lakes have been found attached in large numbers to the shells of live and freshly dead native mussels, and zebra mussels have been implicated in the loss of entire mussel beds.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these mussels in determining to propose these rules. Based on these evaluations, the preferred action is to propose the Cumberland elktoe (*Alasmidonta atropurpurea*), oyster mussel *Epioblasma capsaeformis*, Cumberlandian combshell *Epioblasma brevidens*, purple bean *Villosa perpurpurea*, and rough rabbitsfoot *Quadrula cylindrica strigillata* for Federal protection. The Cumberland elktoe, purple bean, and rough rabbitsfoot are known from three populations each, and the Cumberland combshell and oyster mussel are known from five populations each. These five species and their habitat have been and continue to be impacted by habitat destruction and range reduction. Their limited distribution also makes them very vulnerable to possible extinction from toxic chemical spills. Because of their restricted distributions and their vulnerability to extinction, endangered status appears to be the most appropriate classification for these species. (See "Critical Habitat" section for a discussion of why critical habitat is not being proposed for these mussels.)

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat is not presently prudent for these species. Such a determination would result in no known benefit to these species, and designation of critical habitat could pose a further threat to them.

Section 7(a)(2) and regulations codified at 50 CFR Part 402 require Federal agencies to ensure, in consultation with and with the assistance of the Service, that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, if designated. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. (See "Available Conservation Measures" section for a further discussion of Section 7.) As part of the development of this proposed rule, Federal and State agencies were notified of the mussels' general distributions, and they were requested to provide data on proposed Federal actions that might adversely affect the species. Should any future projects be proposed in areas inhabited by these mussels, the involved Federal agency will already have the general distributional data needed to determine if the species may be impacted by its action; and if needed, more specific distributional information would be provided.

Each of these mussels occupies very restricted stream reaches. Thus, as any significant adverse modification or destruction of these species' habitat would likely jeopardize their continued existence, no additional protection for the species would accrue from critical habitat designation that would not also accrue from listing these species. Therefore, habitat protection for these species would be accomplished through the Section 7 jeopardy standard and Section 9 prohibitions against take.

In addition, these mussels are rare, and taking for scientific purposes and private collection could pose a threat if specific site information were released. The publication of critical habitat maps in the **Federal Register**, local newspapers, and other publicity accompanying critical habitat designation could increase the collection threat and increase the potential for vandalism especially during the often controversial critical habitat designation process. (See "Summary of Factors Affecting the Species, Part B. Overutilization for commercial, recreational, scientific, or educational purposes" section for a further discussion of threats to the species from vandals.) The locations of populations of these species have consequently been described only in general terms in these proposed rules. Any existing precise locality data would be available to appropriate Federal, State, and local governmental agencies from the following offices: Service office described in the **ADDRESSES** section; the Service's Cookeville Field Office, 446 Neal Street, Cookeville, Tennessee 38501; and White Marsh Field Office, P.O. Box 480, Mid-County Center, U.S. Route 17, White Marsh, Virginia 23183; and from the Kentucky Department of Fish and Wildlife Resources, the Kentucky State Nature Preserves Commission, the Tennessee Wildlife Resources Agency, the Tennessee Department of Conservation, the Virginia Department of Game and Inland Fisheries, and the Virginia Department of Conservation and Recreation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the

Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service notified Federal agencies that may have programs which could affect these species. One major Federal project, a proposed Tennessee Valley Authority impoundment on the Duck River, Columbia, Tennessee, could have a significant impact on the oyster mussel. Construction of Columbia Dam was halted in the late 1970's after the Service issued a biological opinion stating that the dam's completion would likely jeopardize the continued existence of two federally listed mussels. (A third mussel listed prior to the issuance of the biological opinion is now known from the proposed flood pool.) Although the presence of a fourth endangered mussel (oyster mussel) may somewhat complicate this issue, any measures needed to avoid a jeopardy situation for the currently listed mussels would not be expected to change significantly with the addition of a fourth listed species.

An impoundment is under consideration on the North Prong of Clear Fork Creek in the upper Big South Fork of the Cumberland River, Fentress County, Tennessee. This project would inundate and adversely impact a portion of the Cumberland elktoe population that exists in the upper Big South Fork basin. This water supply project, proposed by the Fentress County Utility District, is one of a series of water supply alternatives currently under review for a permit pursuant to Section 404 of the Clean Water Act.

No other specific proposed Federal actions were identified that would likely affect any of the species. Federal activities that could occur and impact the species include, but are not limited to, the carrying out or the issuance of permits for reservoir construction, stream alterations, wastewater facility development, pesticide registration, coal mining, and road and bridge construction. It has been the experience of the Service, however, that nearly all Section 7 consultations have been resolved so that the species has been protected and the project objectives have been met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from these proposals will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the species;

(2) the location of any additional populations of the species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) additional information concerning the range, distribution, and population size of the species; and

(4) current or planned activities in the subject areas and their possible impacts on the species.

Final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal. Such requests must be made in writing and addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Richard G. Biggins, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195, Ext. 228).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, the Service proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. § 17.11(h) is amended by adding the following, in alphabetical order under CLAMS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
CLAMS							
*	*	*	*	*	*		*
Bean, purple	*Villosa perpurpurea*	U.S.A. (TN, VA)	E			NA	NA
*	*	*	*	*	*		*
Combshell, Cumberlandian.	*Epioblasma brevidens.*	U.S.A. (AL, KY, TN, VA).		NA	E		
*	*	*	*	*	*		*
Elktoe, Cumberland	*Alasmidonta atropurpurea.*	U.S.A. (KY, TN)		NA	E		
*	*	*	*	*	*		*
Mussel, oyster	*Epioblasma capsaeformis.*	U.S.A. (AL, KY, TN, VA).		NA	E		
*	*	*	*	*	*		*
Rabbitsfoot, rough	*Quadrula cylindrica strigillata.*	U.S.A. (TN, VA)		NA	E		
*	*	*	*	*	*		*

Dated: June 30, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–17133 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 59, No. 134
Thursday, July 14, 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

Forest Service

Bosworth Forest Health Multi-resource Project Pacific Ranger District, Eldorado National Forest

LEAD AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for resource management activities, including biomass removal, timber harvest, fuelbreak construction, and wildlife habitat improvement work on the Bosworth Forest Health Multi-resource Project, involving a total planning area size of about 3,500 acres on the Pacific Ranger District of the Eldorado National Forest. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by August 1, 1994.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Don Errington, District Timber Officer Pacific Ranger Station, Pollock Pines, California, 95726.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Don Errington, District Timber Officer, Pacific Ranger Station, Pollock Pines, California, 95726, phone 916–644–2349.

SUPPLEMENTARY INFORMATION: The Eldorado National Forest Land and Resource Management Plan was completed in January 1989. The Bosworth Forest Health Multi-resource Project EIS will tier to the Eldorado National Forest Land and Resource Management Plan. Most of the land in the analysis area is identified in the Plan as having a general management direction of timber management.

There are no known permits or licenses required to implement the proposed action.

In preparing the EIS, the Forest Service will identify and consider a range of alternatives for this project. The following tentative alternative themes have been identified thus far:

1. No action
2. Forest Health—Timber product, including biomass, management emphasis
3. Forest Health—Wildlife management emphasis
4. Forest Health—Fuels management emphasis
5. Forest Health—Multiple use management emphasis

These alternatives will include varying levels and distribution of vegetation manipulation, timber harvest, and fuels management. Minor new specified road construction is anticipated. Road reconstruction needs will include drainage work, clearing, and minor realignment. The amount of road reconstruction necessary for this project will vary between alternatives. Harvest prescriptions will include understory removal of both merchantable and sub-merchantable trees, commercial thinning, and fuelbreak construction guidelines. All harvest prescriptions will conform with the California Spotted Owl Sierran Province Guidelines. Adaptive Management strategies for the California Spotted Owl may be included under certain alternatives where benefits to the spotted owl will be realized, that is, wildlife habitat activities or fuels management activities that are designed to better maintain future management options for the spotted owl by improving or retaining stand components most at risk.

Volume estimates of timber to be harvested range from 0 to 10 mmbf of commercial sawtimber. Biomass estimates range from 0 to 30,000 tons. These estimates vary, depending on the alternative.

Preliminary issues that have been identified during the internal scoping process include:

1. The potential for cumulative watershed effects within the project area
2. The selection and application of adaptive management strategies to best achieve the habitat needs of the spotted owl

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7).

The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.
3. Defining the proper interdisciplinary team make-up.
4. Determining the effective use of time and money in conducting the analysis.
5. Identifying potential environmental, technical, and social impacts of the proposed action and alternatives.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

John Phipps, Forest Supervisor, Eldorado National Forest, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January, 1995. At that time, EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date EPA's notice of availability appears in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers's position and contentions. *Vermont Yankee Nuclear Power Corp.* v.

NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by April 1995. In the final EIS the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments, responses, and environmental consequences discussed in the draft EIS, and applicable laws, regulations, and policies in making a decision regarding this project. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 215.

Dated: July 7, 1994.

John Phipps,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 94–17093 Filed 7–13–94; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held August 9, 1994, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617–M2, 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 telecommunications and related equipment and technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 6, 1994, 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, contact Lee Ann Carpenter on (202) 482–2583.

Dated: July 11, 1994.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–17128 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–427–812]

Amended Antidumping Duty Order: Calcium Aluminate Flux From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Kate Johnson, 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) 482–6320 or (202) 482–4929.

Amendment of Antidumping Duty Order

On June 13, 1994, the Department of Commerce (the Department) published in the **Federal Register** (59 FR 30337) the Antidumping Duty Order on Calcium Aluminate Flux from France.

In this order, the Department inadvertently stated that the International Trade Commission (ITC) notified the Department that imports of CA flux from France materially injure a U.S. industry. The ITC had found, pursuant to section 735(b)(4)(B) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is threatened with material injury, but that material injury would not have been found but for the suspension of liquidation of entries of the merchandise under investigation.

Therefore, we are amending the suspension of liquidation provisions of the order in accordance with section 736(b)(2) of the Act.

Antidumping Duty Order

In accordance with section 735(d) of the Act, on March 25, 1994, the Department published in the **Federal Register** its final determination that calcium aluminate (CA) flux from France is being sold at less than fair value (59 FR 14136). We amended our final determination on May 9, 1994 (see 59 FR 25446, May 16, 1994) to correct a clerical error. On June 6, 1994, in accordance with section 735(d) of the Act, the ITC notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC further determined, pursuant to section 735(b)(4)(B) of the Act, that it would not have found material injury, but for the suspension of liquidation of entries of CA flux from France.

When the ITC finds threat of material injury, and also makes its "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, all entries of CA flux from France, entered or withdrawn from warehouse, for consumption made *on or after* June 15, 1994 (the date on which the ITC published its final affirmative determination of threat of material injury in the **Federal Register**), will be

liable for the assessment of antidumping duties.

Suspension of Liquidation

The Department will direct U.S. Customs officers to terminate the suspension of liquidation for entries of CA flux from France, entered, or withdrawn from warehouse, for consumption *before* June 15, 1994, (the date on which the ITC published its final affirmative determination of threat of material injury in the **Federal Register**), and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to those entries.

The Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all relevant entries of CA flux from France. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin as noted below:

Manufacturer/producer/exporter	Margin percentage
Lafarge Fondu International	37.93
All others	37.93

This notice constitutes the antidumping duty order with respect to CA flux from France, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: July 7, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–17018 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–016]

Revocation of Antidumping Finding; Ferrite Cores From Japan

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its revocation of the antidumping finding on ferrite cores from Japan because it is no longer of any interest to domestic interested parties.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Lisa Raisner or Michael Panfeld, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482–2104.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 1994, the Department of Commerce (the Department) published in the **Federal Register** (59 FR 23051) its notice of intent to revoke the antidumping finding on ferrite cores from Japan (March 13, 1971).

Additionally, as required by 19 CFR 353.25(d)(4)(ii), the Department served written notice of its intent to revoke this antidumping finding on each domestic interested party on the service list. Domestic interested parties who might object to the revocation were provided 30 days to submit their comments.

Scope of the Order

Imports covered by the revocation are shipments of ferrite cores from Japan. This merchandise is currently classifiable under Harmonized Tariff Schedules (HTS) item numbers 8529.90.93.80, 6909.19.10.00, 8518.90.30.00, 8543.80.90.80, 8473.30.40, 8529.90.30, 8543.90.80, 8473.30.50, 8529.90.35, 8548.00.00.00, 8504.90.00, 8529.90.93.40, 8504.90.00. The HTS numbers are provided for convenience and customs purposes. The written description remains dispositive.

The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of any interest to domestic interested parties. We conclude that there is no interest in an antidumping finding when no interested party has requested an administrative review for five consecutive review periods and when no domestic interested party objects to revocation (19 CFR 353.25(d)(4)(iii)).

In this case, we received no requests for review for five consecutive review periods.

Furthermore, no domestic interested party, under section 353.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations, has expressed opposition to revocation. Based on these facts, we have concluded that the antidumping finding on ferrite cores from Japan is no longer of any interest to interested parties. Accordingly, we are revoking this antidumping finding in accordance with 19 CFR 353.25(d)(4)(iii).

This revocation applies to all unliquidated entries of ferrite cores from Japan entered, or withdrawn from warehouse, for consumption on or after March 1, 1994. Entries made during the period March 1, 1993, through February 28, 1994, will be subject to automatic assessment in accordance with 19 CFR 353.22(e). The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 1, 1994, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries. This notice is in accordance with 19 CFR 353.25(d).

Dated: July 5, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–17016 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–825]

Antidumping Duty Order: Sebacic Acid From the People's Republic of China (PRC)

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482–1766.

Scope of Order

The products covered by this order are all grades of sebacic acid, a dicarboxylic acid with the formula $(CH_2)_8(COOH)_2$, which include but are not limited to CP Grade (500ppm maximum ash, 25 maximum APHA color), Purified Grade (1000ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color. Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the C_{10} dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and

toothbrush bristles and paper machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings.

Sebacic acid is currently classifiable under subheading 2917.13.00.00, of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order remains dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on May 20, 1994, the Department of Commerce (the Department) made its final determination that sebacic acid from the PRC is being sold at less than fair value (59 FR 28053, May 31, 1994). On July 5, 1994, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act, that, but for the suspension of liquidation of entries of sebacic acid from the PRC, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, all unliquidated entries of sebacic acid from the PRC, entered or withdrawn from warehouse, for consumption *on or after* the date on which the ITC published its notice of final determination of threat of material injury in the **Federal Register** (July 13, 1994), are liable for the assessment of antidumping duties.

The Department will direct the Customs Service to terminate the suspension of liquidation for entries of sebacic acid imported from the PRC and entered, or withdrawn from warehouse, for consumption *before the date* on which the ITC published its notice of final determination of threat of material injury in the **Federal Register**, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all relevant entries of sebacic acid from the PRC. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The PRC country-wide rate applies to all PRC companies not specifically listed below.

Manufacturer/producer/exporter	Weighted-average margin percentage
Sinochem Jiangsu Import & Export Corporation	85.48
Tianjin Chemicals Import & Export Corporation	59.67
Guangdong Chemicals Import & Export Corporation	57.00
Sinochem International Chemicals Company	43.72
PRC country-wide rate	243.40

This notice constitutes the antidumping duty order with respect to sebacic acid from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: July 17, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–17017 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DS–M

Texas A&M University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated 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). Related records can be viewed between 8:30 a.m.. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–012. *Applicant:* Texas A&M University, College Station, TX 77843-2126. *Instrument:* Gas Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 59 FR 9964, March 2, 1994. *Reasons:* The foreign instrument provides an absolute sensitivity of 1500 molecules of CO_2 per mass 44 ion and a multi-element collector with 6 Faraday cups. *Advice Received From:* National Institutes of Health, May 31, 1994.

Docket Number: 94–021. *Applicant:* University of Colorado at Boulder, Boulder, CO 80309-0215. *Instrument:* Cryostream Nitrogen Gas Cooler. *Manufacturer:* Oxford Cryosystems, United Kingdom. *Intended Use:* See notice at 59 FR 13706, March 23, 1994. *Reasons:* The foreign instrument provides: (1) a constant cold N_2 flow rate which is matched to the velocity of an annulus of dry air and (2) temperature control to ± 0.1°C. *Advice Received From:* National Institutes of Health, May 31, 1994.

Docket Number: 94–026. *Applicant:* University of North Carolina at Chapel Hill, Chapel Hill, NC 27599-3290. *Instrument:* High Resolution Sector Mass Spectrometer, Model MAT 900. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 59 FR 13706, March 23, 1994. *Reasons:* The foreign instrument provides: (1) mass range to 10 000 at full acceleration in voltage (2) resolution to 60 000 and (3) scan rate to 0.3 seconds per decade. *Advice Received From:* National Institutes of Health, May 31, 1994.

Docket Number: 94–034. *Applicant:* University of California, Davis, CA 95616. *Instrument:* SIR Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 59 FR 16188, April 6, 1994. *Reasons:* The foreign instrument provides: (1) an internal precision of 0.01 per mil for 100 bar µl samples of CO_2 and N_2 and (2) sensitivity to 1100 molecules of CO_2 per mass 44 ion. *Advice Received From:* National Institutes of Health, May 31, 1994.

Docket Number: 94–036. *Applicant:* University of California of Santa Cruz, Santa Cruz, CA 95064. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 59 FR 16188, April 6, 1994. *Reasons:* The foreign instrument provides: (1) an internal precision of 0.01 per mil for 100 bar µl samples of CO_2 and (2) three Faraday collectors. *Advice Received From:* National Institutes of Health, May 31, 1994.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Pamela Woods

Acting Director, Statutory Import Programs Staff

[FR Doc. 94–17015 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DS–F

[A–582–802, A–580–806, A–583–808]

Sweaters Wholly or in Chief Weight of Man-Made Fiber From Hong Kong, Korea, and Taiwan, Notice of Court Decision, Revocation of Antidumping Duty Orders, and Termination of Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of court decision, revocation of antidumping duty orders, and termination of administrative reviews.

SUMMARY: On August 11, 1993, the United States Court of International Trade (CIT) affirmed the International Trade Commission's (ITC) amended determination on remand that there is no material injury to the U.S. industry. The CIT decision was appealed. On July 6, 1994, the CIT decision was affirmed by the Court of Appeals for the Federal Circuit (CAFC). On July 6, 1994, the ITC notified the Department of Commerce (the Department) of the final court decision affirming its negative remand determination. Therefore, we are revoking the antidumping duty orders on sweaters wholly or in chief weight of man-made fiber (MMF sweaters) from Hong Kong, Korea, and Taiwan, and terminating the administrative reviews.

EFFECTIVE DATE: July 14, 1994.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On July 27, and August 10 and 23, 1990, the Department determined that MMF sweaters from Hong Kong, Korea, and Taiwan, were being sold in the United States at less than fair value (55 FR 30733, 32659, and 34585, respectively). On September 19, 1990, the ITC determined that a U.S. industry was being materially injured by reason of imports of MMF sweaters from Hong Kong, Korea, and Taiwan (55 FR 38558). On September 24, 1990, the Department published in the **Federal Register** the antidumping duty orders on MMF sweaters from Hong Kong, Korea, and Taiwan (55 FR 39035, 39036, and 39033, respectively).

The ITC determination was appealed, and the CIT remanded the determination to the ITC. On November 23, 1992, the ITC determined on remand that there was no material injury to a U.S. industry. This remand was affirmed by the CIT on August 11, 1993. *Chung Ling Co., Ltd., et al.* v. *United States*, 829 F.Supp. 1353 (CIT 1993).

The petitioner, the National Knitwear & Sportswear Association (NKSA), appealed the CIT decision on October 6, 1993. On July 6, 1994, the CIT decision was affirmed by the CAFC. On July 6, 1994, the ITC notified the Department of the final court decision affirming its negative remand determinations.

As a result of the ITC notification that there is no material injury to the U.S. industry, the Department is revoking the antidumping duty orders on MMF sweaters from Hong Kong, Korea, and Taiwan. On December 29, 1992, and January 4 and 11, 1993, the CIT granted preliminary injunctions enjoining liquidation of entries of MMF sweaters from Hong Kong, Taiwan, and Korea, entered after April 27, 1990. Therefore, revocation is effective April 27, 1990, for all unliquidated entries. We are also terminating the ongoing administrative reviews on MMF sweaters from these countries. Ongoing administrative reviews include the review on MMF sweaters from Taiwan initiated on October 18, 1991 (56 FR 52254), covering the period April 27, 1990, through August 31, 1991, and the reviews on MMF sweaters from all three countries initiated on October 22, 1992 (57 FR 48201), covering the period September 1, 1991, through August 31, 1992.

TERMINATION OF SUSPENSION OF LIQUIDATION: Pursuant to section 516(e)(2) of the Tariff Act of 1930, as amended, the Department will instruct the U.S. Customs Service to terminate the suspension of liquidation of MMF sweaters from Hong Kong, Korea, and Taiwan, and proceed with liquidation of the subject merchandise, which entered the United States on or after April 27, 1990, without regard to antidumping duties.

Dated: July 7, 1994.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 94–17124 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[Docket No. 940678–4178; I.D. 042094A]

Taking and Importing of Marine Mammals

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

ACTION: Notice of affirmative finding; removal of embargo.

SUMMARY: NMFS announces a determination that the Republic of Colombia has submitted documentary evidence that establishes that it has a marine mammal conservation program and incidental mortality rate that is comparable to that of the United States. As a result of this affirmative finding, yellowfin tuna and products from yellowfin tuna harvested by Colombia-flag purse seine vessels greater than 400 short tons (362.8 mt) carrying capacity, operating in the eastern tropical Pacific Ocean (ETP) can be imported into the United States through December 31, 1994.

EFFECTIVE DATE: This finding was effective May 6, 1994, and remains in effect through December 31, 1994.

ADDRESSES: Director, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90731.

FOR FURTHER INFORMATION CONTACT: LT Dana Wilkes, 310–980–4000, Fax 310–980–4018.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires a ban on the importation of commercial fish or products from fish that have been caught with commercial fishing technology which results in the incidental kill or serious injury of ocean mammals in excess of U.S. standards. In the case of yellowfin tuna from the ETP, the MMPA requires the ban unless nations have met standards comparable to those of the United States. NMFS regulations at 50 CFR 216.24(e) govern the importation of yellowfin tuna caught by purse seine vessels in the ETP. The regulations require submission of certain documentation, including, among other things, the number, by

species, of marine mammals killed and seriously injured and the number of sets made.

The Assistant Administrator for Fisheries, NOAA, reviewed the documentary evidence submitted by Colombia describing the 1993 fishing year (October 1, 1992, through September 30, 1993), and determined that the average rate of incidental taking of marine mammals by Colombia flag vessels and Colombia's regulatory program governing the incidental taking of marine mammals in the course of harvesting yellowfin tuna by purse seine in the ETP are comparable to those of the United States, as required by the tuna importation provisions of 50 CFR 216.24(e). Colombian vessels made only one set involving the encirclement of marine mammals and there were no mortalities or injuries resulting from the set. Observers assigned by the Inter-American Tropical Tuna Commission accompanied 100 percent of the fishing trips made by Colombia-flag purse seine vessels in the ETP during the 1993 fishing year.

On May 6, 1994, after consultation with the Department of State, NMFS issued an affirmative finding to allow the importation of yellowfin tuna and products derived from yellowfin tuna harvested by Colombia-flag purse seine vessels operating in the ETP.

Under the provisions of the International Dolphin Conservation Act, it is unlawful, after June 1, 1994, to buy, sell, offer for sale, ship or transport in the United States tuna that is not dolphin safe. As a result of this provision, only tuna that has not been harvested during a voyage on which purse seine nets were used to encircle dolphin may be sold or shipped into the United States.

Dated: July 7, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94–17065 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Request for Comments on Preliminary Draft of the Report of the Working Group on Intellectual Property Rights

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of draft report and request for public comments.

SUMMARY: The Working Group on Intellectual Property Rights of the White House Information Infrastructure Task Force has issued a preliminary draft of its report, "Intellectual Property and the National Information Infrastructure," and is soliciting public comment. Copies of the preliminary report may be obtained by calling the U.S. Patent and Trademark Office at (703) 305–9300 or by sending a written request to the Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231, marked to the attention of Terri A. Southwick, Office of Legislative and International Affairs. Public hearings will be announced at a later date.

DATES: Written comments should be submitted on or before September 7, 1994. Comments in reply to initial written comments may be submitted no later than September 28, 1994.

ADDRESSES: An original and four copies of comments should be submitted to the Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231, marked to the attention of Terri A. Southwick, Attorney-Advisor, Office of Legislative and International Affairs. Alternatively, comments may be submitted electronically to the following Internet address: nii-ip@uspto.gov. Comments received will be available for public inspection at the Scientific and Technical Information Center of the Patent and Trademark Office, Room 2CO1, Crystal Plaza 3/4, 2021 Jefferson Davis Highway, Arlington, Virginia, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Terri A. Southwick, Attorney-Advisor, Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231. Telephone (703) 305–9300 / Fax: (703) 305–8885.

SUPPLEMENTARY INFORMATION: The Working Group on Intellectual Property Rights, chaired by Assistant Secretary of Commerce and Commissioner of Patents and Trademarks Bruce A. Lehman, was established as part of the White House Information Infrastructure Task Force. The Task Force, chaired by Secretary of Commerce Ronald H. Brown, was created to work with Congress and the private sector to develop comprehensive telecommunications and information policies aimed at articulating and implementing the Administration's vision for the National Information Infrastructure (NII).

The Preliminary Draft of the Report of the Working Group on Intellectual Property Rights represents the Working Group's examination and analysis to date of the intellectual property implications of the NII, and includes the Group's draft findings and recommendations. While it addresses each of the major areas of intellectual property law, including patent, trademark and trade secret, the preliminary draft focuses primarily on copyright law and its application and effectiveness in the context of the NII.

Dated: July 8, 1994.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 94–17119 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–16–M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

On June 16, 1994, notice was given in the **Federal Register** (59 FR, Page 30916) that the Travel and Tourism Advisory Board would meet on July 19, 1994. Notice is hereby given that the venue and starting time have changed as follows: The Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on July 19, 1994, at 9:15 a.m. at the Hampshire House, 84 Beacon Street, 2nd Floor, The Library, Boston, Massachusetts.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the International Travel Act, as amended, and provide guidance to the Under Secretary for Travel and Tourism.

Agenda items are as follows:

I. Call to Order
II. Roll Call
III. Current Legislative Issues
IV. Briefing on H.R. 1250
V. Tourism Policy Council and White House Conference on Tourism
VI. USA Marketing Council Report
VII. USTTA Program Planning
VIII. Miscellaneous
IX. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the public forum and meeting. To the extent time

is available, the presentation of oral statements will be allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230 (telephone: 202–482–1904) will respond to public requests for information about the meeting.

Greg Farmer,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 94–17040 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–11–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Costa Rica

July 11, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: July 18, 1994.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this level, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government agreed to increase the current guaranteed access level for Categories 347/348.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 4042, published on January 28, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU dated December 23, 1993, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Costa Rica and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on July 18, 1994, you are directed to amend the January 24, 1994 directive to increase the guaranteed access level for Categories 347/348 to 2,000,000 dozen, as provided under the terms of the Memorandum of Understanding dated December 9, 1993 between the Governments of the United States and Costa Rica.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–17126 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Hungary

July 11, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: July 18, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 482–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for carryover, swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 8913, published on February 24, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU dated February 4, 1994, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 17, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Hungary and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on July 18, 1994, you are directed to amend the directive dated February 17, 1994 to adjust the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated February 4, 1994 between the Governments of the United States and the Republic of Hungary:

Category	Adjusted twelve-month limit [1]
Fabric Group	
410	732,560 square meters.
433	19,862 dozen.
434	19,963 dozen.
435	29,129 dozen.
443	177,000 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–17127 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Malaysia

July 11, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: July 18, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6712. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for the Fabric Group and Categories 338/339 and 340/640 are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 65580, published on December 15, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 9, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on July 18, 1994, you are directed to amend the directive dated December 9, 1993, to reduce the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated August 26, 1992 between the Governments of the United States and Malaysia:

Category	Adjusted twelve-month limit [1]
Fabric Group 218, 219, 220, 225–227, 313–315, 317, 326 and 613/614/615/617, as a group.	78,324,890 square meters.
Other specific limits	
338/339	839,280 dozen.
340/640	994,169 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–17125 Filed 7–13–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Prophylaxis and Treatment of Cryptosporidiosis

AGENCY: U.S. Army Medical Research and Development Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 08/050,582 entitled "Prophylaxis and Treatment of Cryptosporidiosis", filed 20 April 1993 for licensing. This patent is being assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Office of the Command Judge Advocate, U.S. Army Medical Research and Development Command, Fort Detrick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065.

SUPPLEMENTARY INFORMATION: The invention relates to methods of prevention and/or treating humans and other mammals using newly developed anti-cryptosporidial agents against pathogenic, reproducing strains of *Cryptosporidium* which cause diarrhea in normal mammals. The methods of the invention require administration of the treatment agents in sufficient dosage to prevent or eliminate illness resulting from normally pathogenic *Cryptosporidium*.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–17117 Filed 7–13–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA Number: 84.267]

State Postsecondary Review Program; Notice Extending the Period During Which a State Postsecondary Review Entity (SPRE) May Be Reimbursed for Allowable Costs Under the State Postsecondary Review Program

Extension of Funding Period for SPRE Activity: On July 14, 1993, a notice of funding formula and allowable activities under the State Postsecondary Review Program (SPRP) for fiscal year 1993 was published in the Federal Register. One important provision of that notice established June 30, 1994 as the date by which the Secretary would no longer reimburse a State for allowable direct costs under an approved plan and budget for fiscal year 1993. The purpose of this notice is to extend the period during which a State may be reimbursed by the Secretary for allowable costs incurred in carrying out allowable SPRE activities under the SPRP for the 1993 fiscal year. Certain provisions of the SPRP final regulations, published in the **Federal Register** on April 29, 1994 (59

FR 22286), including those provisions that affect the SPRP application for fiscal year 1994 funding did not become effective until after June 30, 1994. Consequently, States no longer had authority to request reimbursement for allowable costs incurred in carrying out allowable activities after the 1993 fiscal year funding period expired. However, some States continued to carry out allowable activities under approved plans.

This action is taken to allow those States to be reimbursed for costs incurred for allowable activities after June 30, 1994 using fiscal year 1993 funds. The period during which a State may be reimbursed by the Secretary for allowable costs incurred in carrying out allowable activities under the SPRP is extended to August 31, 1994.

For Information Contact: Mr. Kenneth R. Waters, Chief, State Liaison Branch, U.S. Department of Education, 400 Maryland Avenue, S.W., Room, 3036, ROB–3 Washington, D.C. 20202–5244. Telephone: (202) 708–7417. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 1099a–3.

Dated: July 7, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–17020 Filed 7–13–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Floodplain/Wetland Involvement for the Replacement of Four Bridges on the Savannah River Site

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain and wetland involvement.

SUMMARY: DOE proposes to replace four bridges on the Savannah River Site (SRS) near Aiken, South Carolina. The proposed action would involve construction activity to replace bridges in the floodplain and wetlands of Upper Three Runs Creek and Tinker Creek. The scope of this project is intended to immediately replace three of these bridges because of deteriorated, decayed, or rotten timber piles. A fourth bridge would be scheduled for a later replacement. These impacted areas would include:

- Replacement of Bridge 603–13G at the intersection of Upper Three Runs Creek and SRS Road 8–1.
- Replacement of Bridge 603–14G at the intersection of Tinker Creek and SRS Road 8–1.
- Replacement of Bridge 603–15G at the intersection of Upper Three Runs Creek and SRS Road 2–1.
- Replacement of Bridge 603–39G at the intersection of Tinker Creek and SRS Road 2–1.

These activities would necessitate temporary access for purposes of construction, as well as disruptions caused by driving new pilings in areas considered floodplains and wetlands of the SRS. In accordance with Title 10, CFR, Part 1022, DOE will prepare a floodplain/wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplains and wetlands.

DATES: Comments on the proposed actions are due on or before July 29, 1994.

ADDRESSES: Comments should be addressed to Floodplain/Wetlands Comments, Stephen R. Wright, Director, Environmental and Laboratory Programs Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802. The phone number is (803) 725–3957. Fax comments to: (803) 725–7688.

FOR FURTHER INFORMATION ON GENERAL FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, PLEASE CONTACT: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586–4600 or (800) 472–2756.

A location map showing the project sites and further information can be obtained from the Savannah River Operations Office (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION: The bridges on SRS Road 8–1 (603–13G and 603–14G) which cross Upper Three Runs Creek and Tinker Creek will be replaced with minimal short-term impact and no long-term impact to wetlands or floodplains. This is because sufficient shoulder exists to allow abutment build-up without soil moving into the wetlands. A storm water and sediment control plan will be required prior to bridge replacements in order to minimize sediments eroding into the adjacent wetlands and floodplain. The wetlands and floodplains along Bridge 603–13G & Road 8–1 is located within an area set aside for research. However, there is sufficient shoulder on each side of the stream to allow the replacement work to occur without impacts to the set aside area.

The bridge (603–15G) that spans Upper Three Runs Creek on SRS Road 2–1 will be replaced with minimal short-term impact and no long-term impact to wetlands or floodplains. The bridge (603–39G) that spans Tinker Creek on SRS Road 2–1 would be scheduled for replacement in the future as funding becomes available.

The work required to replace these bridges would be accomplished from the existing roadbeds using a crane for pile driving, erection, and demolition. The only disturbance to the stream is anticipated to result from the installation of two piles to support the center span of the bridges. Prestressed, precast concrete beams will be used to construct longer spans in order to minimize pile installation in the stream. A small amount of sediment would be expected to go into the stream where the work is in the channel and temporarily increase the stream's sediment load level. These increased sediment loads would be less than that encountered after a heavy rainstorm. The old bridge supports would be cut off at the stream bed which may affect the flow of the stream. The bridges would be replaced at their present locations; there should be no loss or long-term impact to SRS floodplains or wetlands.

DOE intends to investigate alternatives to placing pilings in stream channels and mitigation measures to minimize potential impacts to the floodplain and wetlands. There would be no operation of construction equipment or storage of equipment or materials in wetland areas. The existing unpaved roadways would be used for operation of construction equipment and as a material laydown area. There would be no excavation or deposition of fill material in wetlands. The only impact to wetlands would be from the installation of the pilings in stream channels and pilings cut off at stream beds. It is expected that no hazardous wastes or materials would be released in accomplishing the proposed action. Other erosion control measures, such as riprap berms along existing roadway, temporary and permanent seeding, and increasing the gravel thickness of the existing roadway may also be implemented to ensure there is no deposition in downslope wetland areas. The new abutments would be set on pilings placed outside the existing wetland limits on the existing roadway preventing any impacts to the stream and wetlands. Sediment from installation of the pilings in the stream channels could cause a short term

impact to the downstream aquatic system. This impact would be very minor compared to the regular sediment load of Upper Three Runs and Tinker Creeks resulting from a rainstorm and should not last more than a few days following completion of the work. The amount of sediment created by the initial driving of each pile is expected to be measured in ounces. A portable U-shaped silt fence would be placed downstream during pile installation to collect any sediment displaced. Long-term construction impacts in floodplain and wetland areas should not be a factor, since the bridges are to be replaced at their present locations.

A storm water and sediment control plan would be developed so that the proposed action complies with applicable State and local floodplain protection standards and further, to ensure that no additional impacts to wetlands would occur due to erosion and sedimentation. Best management practices would be employed during construction and maintenance activities associated with these proposed actions. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a Floodplain/Wetlands Assessment for this proposed DOE action.

Issued in Washington, DC, on this 8th day of July 1994.

Donald F. Knuth,

Acting Deputy Assistant Secretary for Facility Transition and Technical Support Defense Programs.

[FR Doc. 94–17137 Filed 7–13–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of DOE Furnace Test Procedures from Evcon Industries, Inc. (Case No. F–072)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Evcon Industries, Inc. (Evcon) from the existing Department of Energy (DOE) test procedure regarding blower time delay for the company's AGU, BGU, and BGD series gas furnaces.

Today's notice also publishes a "Petition for Waiver" from Evcon. Evcon's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Evcon seeks to test using a blower delay time of 30 seconds for its AGU, BGU, and BGD series gas furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than August 15, 1994.

ADDRESS: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. F–072, Mail Stop EE–43, Room 5E–066, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–7140

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily, test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On May 11, 1994, Evcon filed an Application for Interim Waiver regarding blower time delay. Evcon's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Evcon requests the allowance to test using a 30-second blower time delay when testing its AGU, BGU, and BGD series gas furnaces. Evcon states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in a 1.0 to 2.0 percent improvement in overall energy efficiency. Since current DOE test procedures do not address this variable blower time delay, Evcon asks that the Interim Waiver be granted.

The Department has published a Notice of Proposed Rulemaking on August 23, 1993, (58 FR 44583) to

amend the furnace test procedure, which addresses the above issue.

Previous waivers for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27, 1992, and 58 FR 68138, December 23, 1993; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993 and 59 FR 14394, March 28, 1994; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992 and 59 FR 12586, March 17, 1994; The Ducane Company Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Evcon an Interim Waiver for its AGU, BGU, and BGD series gas furnaces. Pursuant to paragraph (e) of Section 430.27 of the Code of Federal Regulations Part 430, the following letter granting the Application for Interim Waiver to Evcon was issued.

Pursuant to paragraph (b) of 10 CFR Part 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. The Department solicits comments, data, and information respecting the petition.

Issued in Washington, DC; July 9, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Department of Energy

Washington, DC 20585

July 9, 1994

Mr. Tom Chase,

Senior Design Engineer, Evcon Industries, Inc., P.O. Box 19014, Wichita, KS 67204–9014

Dear Mr. Chase: This is in response to your May 11, 1994, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedure regarding blower time delay for Evcon Industries, Inc. (Evcon) AGU, BGU, and BGD series gas furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27, 1992, and 58 FR 68138, December 23, 1993; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993 and 59 FR 14394, March 28, 1994; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992 and 59 FR 12586, March 17, 1994; The Ducane Company Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

Evcon's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Evcon will likely experience absent a favorable determination on its application.

However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Evcon's Application for an Interim Waiver from the DOE test procedure for its AGU, BGU, and BGD series gas furnaces regarding blower time delay is granted.

Evcon shall be permitted to test its AGU, BGU, and BGD series gas furnaces on the basis of the test procedures specified in 10 CFR Part 430, Subpart B, Appendix N, with the modification set forth below:

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103–82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-) unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay (t-) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified

at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Evcon Industries, Inc.

May 11, 1994.

Mr. Cyrus Nasseri,

Assistant Secretary, Conservation and Renewable Energy, United States Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585

Dear Mr. Nasseri: Please consider this petition for waiver and application for interim waiver submitted pursuant to title 10 CFR 430.27. Waiver is requested from the furnace test procedure prescribed in Appendix N to Subpart B of Part 430. The current test procedure requires a 1.5 minute delay from burner startup to blower startup. Evcon is requesting authorization to use a 30 second blower delay on our AGU, BGU and BGD Series gas furnaces. These units are equipped with an electronic device which controls the blower, using a fixed, non-adjustable timing sequence.

This 30 second time delay reduces the amount of heat lost out of the vent system during warm-up, resulting in a 1 to 2 percent improvement in overall energy efficiency. The current test procedure does not give Evcon credit for this energy savings.

Evcon has previously been granted waivers regarding furnace blower on timings, as have most other manufacturers of gas furnaces. Also ASHRAE Standard 103–1993, paragraph 9.5.1.2.2 specifically addresses testing of furnaces with fixed blower time delays.

Confidential test data which verifies these energy savings are available to you upon your request. A copy of this petition for waiver and application for interim waiver is being sent to other domestic manufacturers of similar products.

Sincerely,

Tom Chase,

Senior Design Engineer.

[FR Doc. 94–17136 Filed 7–13–94; 8:45 am]

BILLING CODE 6450–01–P

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of DOE Furnace Test Procedures From York International Corporation (Case No. F–073)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to York International Corporation (York) from the existing Department of Energy (DOE) test procedure regarding blower time delay for the company's P2DP, PBKD, and XED02 lines of induced draft furnaces.

Today's notice also publishes a "Petition for Waiver" from York. York's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. York seeks to test using a blower delay time of 30 seconds for its P2DP, PBKD, and XED02 lines of induced draft furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than August 15, 1994.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. F–073, Mail Stop EE–43, Room 5E–066, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Hasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Stop EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily, test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver whichever is sooner, and may be extended for an additional 180 days, if necessary.

On June 16, 1994, York filed an Application for Interim Waiver regarding blower time delay. York's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, York requests the allowance to test using a 30-second blower time delay when testing its P2DP, PBKD, and XED02 lines of induced draft furnaces. York states that the 30-second delay is

indicative of how these furnaces actually operate. Such a delay results in an approximately 0.5 percent improvement in energy efficiency. Since current DOE test procedures do not address this variable blower time delay, York asks that the Interim Waiver be granted.

The Department has published a Notice of Proposed Rulemaking on August 23, 1993, (58 FR 44583) to amend the furnace test procedure, which addresses the above issue.

Previous waivers for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988; 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27, 1992, and 58 FR 68138, December 23, 1993; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993 and 59 FR 14394, March 28, 1994; Amana Refrigeration, Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992 and 59 FR 12586, March 17, 1994; The Ducane Company, Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 2220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting York an Interim Waiver for its P2DP, PBKD, and XEDO2 lines of induced draft furnaces. Pursuant to paragraph (e) of Section 430.27 of the Code of Federal Regulations Part 430, the following letter granting the Application for Interim Waiver to York was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. The Department solicits comments, data, and information respecting the petition.

Issued in Washington, DC, July 9, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

July 9, 1994

Mr. Michael B. Eberlein, P.E.,

Engineering Manager—Furnace Products, • York International Corporation, P.O. Box 4022, Elyria, OH 44036

Dear Mr. Eberlein: This is in response to your June 16, 1994, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedure regarding blower time delay for York International Corporation (York) P2DP, PBKD, and XEDO2 lines of induced draft furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27,1992, and 58 FR 68138, December 23, 1993; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993 and 59 FR 14394, March 28, 1994; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992 and 59 FR 12586, March 17, 1994; The Ducane Company Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

York's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage York will likely experience absent a favorable determination on its application.

However, in those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, York's Application for an Interim Waiver from the DOE test procedure for its P2DP, PBKD, and XED02 lines of induced draft furnaces regarding blower time delay is granted.

York shall be permitted to test its P2DP, PBKD, and XED02 lines of induced draft furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, Appendix N, with the modification set forth below:

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103–82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−) unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the

highest temperature. If the fan control is permitted to start the blower, measure time delay (t–) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

June 16, 1994

Assistant Secretary, Conservation & Renewable Energy,

United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Subject: Petition for Waiver and Application for Interim Waiver.

Gentlemen: This is a Petition for Waiver and Application for Interim Waiver submitted pursuant to Title 10 CFR 430.27, as amended 14 November 1986. Waiver is requested from the test procedures for measuring the Energy Consumption of Furances found in Appendix N of Subpart B to Part 430, specifically the section requiring a 1.5 minute delay between burner ignition and start-up of the circulating air blower.

York International requests a waiver from the specified 1.5 minute delay, and seeks authorization in its furnace efficiency test procedures and calculations to utilize a fixed timing control that will energize the circulating air blower 30 seconds after the gas valve opens. A control of this type with a fixed 30 second blower on-time will be utilized in our P2DP, PBKD and XED02 lines of induced draft furnaces.

The current test procedure does not credit York for additional energy savings that occur when a shorter blower on-time is utilized. Test data for these furnaces with a 30 second delay indicate that the overall furnace AFUE will increase approximately 0.5 percent compared to the same furnace when tested with the 1.5 minute delay. Copies of the confidential test data confirming these energy savings will be forwarded to you upon request.

York International is confident that this waiver will be granted, as similar waivers have been granted in the past to Coleman Company, Magic Chef Company, Rheem Manufacturing, the Trane Company, Carrier Corporation, Lennox, Amana Refrigeration, Goodman Manufacturing Company and others.

Manufacturers that domestically market similar products are being sent a copy of this Petition for Waiver and Application for Interim Waiver.

Sincerely,

Michael B. Eberlein, P.E.,

Engineering Manager-Furnace Products, Unitary Products Group.

[FR Doc. 94–17135 Filed 7–13–94; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. EG94–74–000, et al.]

Gordonsville Energy, L.P., et al.; Electric Rate and Corporate Regulation Filings

July 8, 1994.

Take notice that the following filings have been made with the Commission:

1. Gordonsville Energy, L.P.

Docket No. EG94–74–000

On June 30, 1994, Gordonsville Energy, L.P., 12500 Fair Lakes Circle, Suite 300, Fairfax, Virginia 22033, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

The applicant is a corporation engaged directly and exclusively in the business of owning and operating eligible facilities located in Virginia and selling electric energy at wholesale. Applicant's eligible facilities consist of two 128 MW (net) cogeneration facilities located in Louisa County, Virginia, near Gordonsville.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Puget Sound Power & Light Company

Docket No. ER94–1114–000

Take notice that on June 24, 1994, Puget Sound Power & Light Company tendered for filing an amendment to its March 31, 1994 filing in the above-referenced docket.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Beebee Island Corporation

Docket No. ER94–465–000

Take notice that Beebee Island Corporation (BIC), on June 27, 1994, tendered for filing proposed changes in its Unit Power Sales Agreement with Niagara Mohawk Power Corporation. The proposed changes include an amendment of the formula used to determine total annual revenues from Niagara Mohawk Power Corporation for electricity produced by Beebee Island Corporation's hydroelectric facility, located on the Black River in Watertown, New York. It is not anticipated that the amended formula will have a material effect on annual charges by Beebee Island Corporation.

Copies of the filing were served upon Niagara Mohawk Power Corporation, Filtration Sciences, Inc. and the City of Watertown, New York.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Portland General Electric Company

Docket No. ER94–944–000

Take notice that on June 30, 1994 Portland General Electric Company (PGE) tendered for filing a Notice of Withdrawal of PGE's filing in Docket No. ER94–944–000.

PGE has served copies of this filing on the Oregon Public Utility Commission on Kinzua Energy Company.

Comment date: July 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Portland General Electric Company

Docket No. ER94–963–000

Take notice that on June 8, 1994, Portland General Electric Company (PGE) tendered for filing a supplement to its filing in the above Docket, in response to questions from Commission staff concerning the filed Round Butte/Cove Interconnection and Operation Agreement.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Carolina Power & Light Company

Docket No. ER94–1054–001

Take notice that on June 13, 1994, Carolina Power & Light Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: July 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

Docket No. ER94–1240–000

Take notice that on July 1, 1994, Maine Public Service Company tendered for filing an amendment to its May 6, 1994 filing in this docket.

Comment date: July 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Electric Power Company

Docket No. ER94–1347–000

Take notice that Wisconsin Electric Power Company on June 13, 1994,

tendered for filing an Interconnection and Interchange Agreement between itself and Wisconsin Power and Light Company. The Agreement supersedes and replaces in its entirety the previous agreement dated June 7, 1971 which the parties wish to cancel. These rate schedule designations were No. 31 for Wisconsin Electric Power Company and No. 90 for Wisconsin Power and Light Company. The service schedules appended to the Agreement provide for the sale and purchase of Negotiated Capacity and Energy, Emergency Energy, Economy Energy, Short Term Power and Energy, Maintenance Energy, and General Purpose Energy.

The Agreement also updates the listing of interconnection points between the Parties, which are contained as appendices to the Agreement.

Wisconsin Electric Power Company respectfully requests an effective date of 60 days after the filing date.

Copies of the filing have been served on the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 21, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

Docket No. ER94–1403–000

Take notice that on June 28, 1994 Commonwealth Edison Company (Edison) submitted two Service Agreements, dated June 6, 1994 and June 15, 1994, respectively, establishing AES Power, Inc. (AES), and Enron Power Marketing, Inc. (Enron), as customers under the terms of Edison's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

Edison requests an effective date of June 28, 1994 and according seeks waiver of the Commission's notice requirements. Copies of this filing were served upon AES, Enron and the Illinois Commerce Commission.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Montana Power Company

Docket No. ER94–1404–000

Take notice that on June 29, 1994 the Montana Power Company (Montana) tendered for filing a Form of Service Agreement with Electric Clearinghouse, Inc. (ECI) under FERC Electric Tariff, Second Revised Volume No. 1 (M–1 Tariff), as well as a revised Index of Purchasers under said Tariff and a Certificate of Concurrence from ECI.

A copy of the filing was served upon ECI.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

Docket No. ER94–1417–000

Take notice that on June 30, 1994, Entergy Services, Inc. (Entergy Services) tendered for filing a Transmission Service Agreement (TSA) between Entergy Services and Cajun Electric Power Cooperative, Inc. (Cajun). Entergy Services states that the TSA sets out the transmission arrangements under the Entergy Operating Companies' Transmission Service Tariff over their transmission system for certain sales by Cajun to Tennessee Valley Authority.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17056 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EL94–71–000, et al.]

North Little Rock Cogeneration, L.P. and Power Systems, Ltd., et al.; Electric Rate and Corporate Regulation Filings

July 7, 1994.

Take notice that the following filings have been made with the Commission.

1. North Little Rock Cogeneration, L.P. and Power Systems, Ltd.

Docket No. EL94–71–000

Take notice that on June 27, 1994, North Little Rock Cogeneration, L.P. (NLRC) and Power Systems, Ltd. (PSL) tendered for filing a Petition for Enforcement under section 210(h) of the Public Utility Regulatory Policies Act of 1978 directed against the City of North Little Rock, Arkansas. The petitioners request that the Commission consider their petition expeditiously and consolidate it with the complaint being filed by the petitioners concurrently in Docket No. EL94–72–000 against Entergy Services, Inc.

Comment date: July 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. North Little Rock Cogeneration, L.P. and Power Systems, Ltd. v. Entergy Services, Inc, and Arkansas Power and Light Co.

[Docket No. EL94–72–000]

Take notice that on June 28, 1994, North Little Rock Cogeneration, L.P. (NLRC) and Power Systems, Ltd. (PSL) tendered for filing a complaint against Entergy Services, Inc. and Arkansas Power & Light Company (AP&L). In their complaint NRLC and PSL challenge the lawfulness of the wholesale power rates contained in the power agreement between AP&L and the City of North Little Rock, Arkansas, dated March 31, 1994. The petitioners request that the Commission consider their complaint expeditiously and consolidate it with the Petition for Enforcement filed by the petitioners in Docket No. EL94–71–000 against the City of North Little Rock, Arkansas.

Comment date: July 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Electric Company v. Boston Edison Company

[Docket No. EL94–73–000]

Take notice that on June 30, 1994, Commonwealth Electric Company (Commonwealth) tendered for filing a Petition for Investigation and Complaint against Boston Edison Company. According to Commonwealth, the Petition arises out of the contract between Commonwealth and Boston Edison Company for purchase and sale of electricity from the Pilgrim Nuclear Plant.

Comment date: July 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Polk Power Partners, L.P.

[Docket No. QF92–54–006]

On July 1, 1994, and July 5, 1994, Polk Power Partners, L.P., (Applicant) tendered for filing amendments to its filing in this docket. No determination has been made that the submittals constitute a complete filing.

The amendments provide additional information pertaining primarily to the ownership, and useful thermal output of the facility.

Comment date: July 29, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. AEP Resources International, Limited

[Docket No. EG94–73–000]

On June 28, 1994, AEP Resources International, Limited ("AEPRI", a corporation duly established under the laws of the Cayman Islands with a registered office located at Caledonian Bank & Trust Limited, Ground Floor, Caledonian House, Mary Street, P.O. Box 1043, George Town, Grand Cayman, Cayman Islands, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

In its application, AEPRI states that it intends (i) to engage directly, or indirectly through an affiliate, in the business of owning or operating, or both owning and operating, an eligible facility as defined under Section 32(a)(2) of the Public Utility Holding Company Act of 1935 ("PUHCA"), consisting of two 1300 megawatt coal-fired units to be constructed in Suizhong, Liaoning Province, in the People's Republic of China and selling electric energy at wholesale and/or retail, and (ii) to engage in activities that relate to the development and potential acquisition of ownership interests in as-yet unidentified eligible facilities and/or EWGs.

Comment date: July 22, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Michigan Cogeneration Partners Limited Partnership

Docket No. QF94–104–000

On July 1, 1994, Michigan Cogenerator Partners Limited Partnership tendered for filing an amendment to its filing in this docket.

The amendment pertains to information relating to technical and ownership aspects of the qualifying facility. No determination has been made that this submittal constitutes a complete filing.

Comment date: July 27, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17057 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. TM94–6–48–000]

ANR Pipeline Co.; Proposed Changes In FERC Gas Tariff

July 8, 1994.

Take notice that on July 1, 1994, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, to be effective August 1, 1994:

Fourth Revised Sheet No. 19
First Revised Sheet No. 68H

ANR states that the purpose of the instant filing is to update ANR's annual redetermination of its Transporters Use (%) effective August 1, 1994.

ANR states that all of its Volume Nos. 1 and 2 customers and interested State Commissions have been mailed a copy of this filing.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure 18 CFR 385.211 or 385.211. All such motions or protests should be filed on or before July 15, 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 in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17054 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–4–70–000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

July 8, 1994.

Take notice that on July 1, 1994, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to be effective August 1, 1994:

First Substitute Second Revised Sheet No. 018
Second Revised Sheet No. 018A
First Substitute Second Revised Sheet No. 019
Second Revised Sheet No. 019A

Columbia Gulf states that these tariff sheets are being filed to revise the retainage factors applicable to its transportation services in accordance with Section 33 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, which allows Columbia Gulf to periodically adjust its retainage factors.

Columbia Gulf states that copies of its filing has been mailed to all jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17053 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT94–5–000]

K N Interstate Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

July 8, 1994.

Take notice that on June 17, 1994, K N Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–B, the following tariff sheets, with an effective date of July 1, 1994.

Original Sheet Nos. 52 and 53.

KNI states that it is making this filing in order to update information concerning its Order No. 497 compliance information and procedures.

KNI states that copies of the filing have been served on all of KNI's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before July 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17047 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–313–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

July 8, 1994.

Take notice that on July 5, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 149A, to be effective August 1, 1994.

Natural states that the purpose of the filing is to add subsection (f) to Section 7.2 of Rate Schedule S–1 to provide Shippers the option to utilize confirmed nominated injections under Rate Schedule S–1 to balance volumes taken at delivery points in excess of confirmed nominated deliveries.

Natural requested whatever waivers may be necessary to permit the tariff sheet to become effective August 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional transportation customers and interested State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before July 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17052 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–311–000]

North East Heat & Light Co. v. National Fuel Gas Supply Corp.; Notice of Complaint

July 8, 1994.

Take notice that on June 23, 1994, North East Heat & Light Co. (North East) filed a complaint and request for hearing against National Fuel Gas Supply Corp. (National Fuel), in the above-referenced docket.

North East states that the complaint is being filed against National Fuel for failing to make refunds in the amount of $9,420.83, and for overcharging Account Nos. 186 and 191 balances in the amount of $5,822.49.

North East states that it and National Fuel agreed to a reduction in North East's minimum monthly demand from 5,414 Dth to 4,031 Dth for both rate and Order No. 636 purposes, which was reflected in an unopposed settlement approved by the Commission in an order issued December 30, 1993, in Docket No. RP92–73–000 *et al.* 65 FERC ¶ 61,440.

North East argues that National Fuel erroneously based its claim to collect Account No. 186 and 191 costs in the total amount of $24,016.96 from North East on a Minimum Monthly Demand of 5,414 Dth instead of 4,031 Dth, which resulted in the overcharges and refund shortfall whereof it complains.

North East asks that the Commission find National Fuel has unlawfully sought to overcharge North East by $5,822.49 and has failed to refund to North East $9,420.83.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest 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, 385.211. All such motions or protests should be filed on or before August 8, 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. Answers to this complaint shall be due on or before August 8, 1994.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17051 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–11–59–000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 8, 1994.

Take notice that on July 5, 1994, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that it is filing Twelfth Revised Sheet No. 53 to establish the June 1994 Index Price for determining the dollar/volume equivalent for any transportation imbalances that may exist on contracts between Northern and its Shippers.

Northern states that copies of the filing were served upon the company's customers 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 Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 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 July 15, 1994. Protests will be considered by the Commission

in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceedings. 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 inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17055 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–262–028]

Panhandle Eastern Pipe Line Co.; Notice of Refund Report

July 8, 1994.

Take notice that on July 1, 1994, Panhandle Eastern Pipe Line Company (Panhandle), pursuant to the technical conference held on November 30, 1993, filed with the Commission its Revised Refund Evaluation.

Panhandle states that it is filing its Revised Refund Report with all supporting Appendices and Schedules and detailed individual customer refund calculations for consideration by the Commission's staff, along with summary materials included in the report.

Panhandle states that portions of the Revised Refund Report pertinent to the individual refund calculations of each customer, as well as summary materials and this filing have been served on them. Panhandle also states that the summary materials have been served on affected state commissions.

Consistent with the dates established at the June 16, 1994 technical conference, any person desiring to protest said filing or comment on the filing or other matters discussed at the conference, should file such protest or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests or comments should be filed on or before August 1, 1994. Reply comments should be filed on or before August 31, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17048 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–203–046]

Tennessee Gas Pipeline Co.; Notice of Filing of Refund Report

July 8, 1994.

Take notice that on July 7, 1994, Tennessee Gas Pipeline Company (Tennessee) filed its report of refunds pursuant to Article I of the Stipulation and Agreement filed on June 2, 1993 in the above referenced dockets.

Tennessee states that on June 3, 1994, it refunded $260,510,143.31 including principal and interest to all affected customers for the period February 1, 1992 through August 31, 1993. Additionally, it states that it refunded an additional $9,317,666.94 to all rate schedule NET customers pursuant to a separate Stipulation and Agreement filed on October 29, 1992.

Tennessee states that copies of the refund report have been mailed to all affected state regulatory commissions and that customers were served with calculations supporting the refunds on the date which the refunds were made.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before July 15, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17049 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–299–000]

Texas Eastern Transmission Corp.; Notice of Report on the First Year of Operations Under Order No. 636

July 8, 1994.

Take notice that on June 27, 1994, Texas Eastern Transmission Corp. (Texas Eastern) submitted, pursuant to and in compliance with the Commission's orders in Docket Nos. RS92–11, *et al.*,[1] its "Report on the First Year Operations Under Order No. 636". Texas Eastern states that such Commission orders require Texas Eastern to provide to the Commission certain information based on operational experience for the first year of operation under the provisions of Order No. 636. Texas Eastern states that it has been operating under Order No. 636 since June 1, 1993, the day its restructuring was approved to be effective by the Commission in Docket Nos. RS92–11, *et al.* The last day of the first year of operation was May 31, 1994. Texas Eastern states that it has provided in the filing the information required by the Commission and that copies of the filing were served on all parties in Docket Nos. RS92–11, *et al.*

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. All such motions or protests should be filed on or before August 8, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17050 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–645–000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

July 8, 1994.

Take notice that on July 6, 1994, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP94–645–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct and operate a Mississippi River Crossing, whereby two 30-inch pipelines will be replaces with one 36-inch pipeline. Transco requests a permanent certificate and construction clearance by August 1, 1994 and, if a

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[1] *Texas Eastern Transmission Corp.*, 62 FERC 61,015 (1993); *Texas Eastern Transmission Corp.*, 63 FERC ¶ 61,100 (1993); *Texas Eastern Transmission Corp.*, 64 FERC ¶ 61.305 (1993); *Texas Eastern Transmission Corp.*, 65 FERC ¶ 61,361 (1993); *Texas Eastern Transmission Corp.*, Docket No. RS92–11–022, Notice of Denial of Rehearing, issued February 17, 1994.

permanent certificate is not issued by August 1, Transco requests that a temporary certificate and construction clearance be issued by that date, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that on May 20, 1994, it filed a 30-day notice pursuant to Section 2.55(b)(1)(iii) of the Commission's Regulations regarding a planned replacement activity exceeding the cost limits provided in Section 157.208(d) of the Regulations. In such notice, Transco states that it proposed to replace two shallow 30-inch Mississippi River crossing pipelines which have been rendered inoperable by river channel scour. It is stated that the two 30-inch pipeline's will be replaced with one 36-inch installed by horizontal drilling under the river.

Transco states that it received a letter dated June 17, 1994, from the Director of the Office of Pipeline regulation (OPR) which stated:

"On May 12, 1994, the Commission clarified its section 2.55(b) regulations. In Docket No. CP91–2069–000, Arkla Energy Resources Company, the said '* * * that section 2.55(b) means that replacement facilities must be constructed within the existing right-of-way.'

Based on Transcontinental Gas Pipe Line Corporation's (Transco) filing on May 20, 1994 and supplemented on June 2, 1994, 30-day notice of section 2.55(b) replacement of two 30-inch-diameter pipelines with one 36-inch-diameter pipeline in Pointe Coupee and West Feliciana Parishes, Louisiana is not in the existing right-of-way. Therefore, this project does not qualify for replacement treatment under section 2.55(b). Transco needs to file a section 7(c) application for this project.

Accordingly, Transco states that it filed the instant application.

Transco proposes to install approximately 4,100 feet of 36-inch diameter pipeline by horizontal drilling under the Mississippi River, at the location of its established pipeline crossing corridor of the Mississippi River between Point Coupee and West Feliciana Parishes, Louisiana. It is states that approximately 900 feet of 36-inch tie-in pipeline on the banks of the river will be required to connect the drilled crossing to Transco's mainline system. It is stated that the proposed installation will replace two 30-inch pipeline that have been exposed and damaged by Mississippi River channel scour and are now inoperable. Transco states that the proposed replacement will restore the long-term integrity of Transco's transmission system at the Mississippi River crossing.[1] Transco estimates that the cost of the replacement is approximately $7 million.

Transco states that the system capacity across the Mississippi River after construction of the 36-inch crossing will be 2,346.5 MMcf per day (MMcfd) compared to a capacity of 2,334 MMcfd in 1982 prior to the first failure of one of Transco's shallow pipeline crossings. Accordingly, Transco states that its three directionally drilled pipelines at the Mississippi River crossing (including the one installed pursuant to the instant application) will have a substantially equivalent designed delivery capacity as the five shallow, conventionally installed pipelines and will therefore result in only a nominal increase in capacity at the river crossing. It is stated that all shallow river crossings at this location have been or will be retired.

Transco states that it needs both the Commission authorization and construction clearance by August 1, 1994 to commence construction of this project as soon as possible because, historically, the water level in the Mississippi River is at its annual low point at this time of the year. It is stated that this is important because the drilling equipment will be located on the west bank of the river, inside the flood control levee. During the months of August and September, Transco states that it is expected that the west bank will be dryer than at any time during the year and thus will provide the most secure conditions for the equipment. Transco states that there is only a 2–3 month "window" period for this type of construction before the water level in the river typically rises to a level which would prevent the emplacement of the drilling equipment.

Transco states that it is vitally important that it complete the installation of the new 36-inch pipeline in order to replace the capacity lost as a result of the two 30-inch lines being rendered inoperable by river channel scour. It is stated that this crossing must be completed in time to provide service during the upcoming winter heating season to ensure that the necessary volumes of gas will be able to flow from the production areas—across the Mississippi River—to Transco's markets.

Transco states that issuance of a certificate by August 1 for the Mississippi River crossing is justified by two reasons: (1) the above-mentioned need for security of gas service during the upcoming winter heating season, and (2) the *de minimis* impact on the environment of the crossing project (as described below). Furthermore, Transco states that the Commission staff is already familiar with this project because of Transco's previous filing of the 30-day notice pursuant to section 2.55(b) of the regulations. Transco states that with respect to the environment, the following are the significant points:

1. In 1992 Transco installed a 36-inch pipeline by directional drilling under the Mississippi River at the same general location. On the west side of the river, the property to be used for temporary work space is owned by Transco in fee. This temporary work place is essentially the same area that was used in 1992. Transco states that an additional 0.4 acre of forested wetlands area is to be cleared on the west side for the proposed installation.

On the east side of the river, the area to be used for temporary work space is essentially the same area that was used in 1992. Transco states that an additional 1.0 acre of forested wetlands areas is to be cleared on the east dies for the proposed installation. The area is within the area which Transco has leased for ten years from the landowner. The ten-year period was to have expired on August 13, 1994, but Transco has recently negotiated an extention until August 13, 1995.

In summary, Transco states that the temporary work areas are essentially the same areas which were previously used in 1992, and the additional areas to be cleared are minor in nature, *i.e.*, a total of 1.4 acres, with 0.4 acre being on Transco-owned land.

2. All clearances have been received with respect to endangered/threatened species and cultural resources.

3. There are no residential dwellings near this project. The owner of the land on the east side of the river does not live on such land.

4. Transco does not have the option of *in situ* replacement because it is replacing shallow trenched pipelines with a directionally drilled one deep beneath the river bed. Transco states that it is locating the planned 36-inch pipeline as close as prudently feasible to the 36-inch pipeline installed by directional drilling in 1992. The planned pipeline is within Transco's established Mississippi River crossing corridor.

Transco points out that, additionally, the details of its proposed Mississippi

[1] Transco states that directionally drilled pipelines under rivers are significantly more secure than older pipelines which installed by way of trenching the river bed. It is stated that the 36-inch pipeline crossing will be 90 feet below the deepest Mississippi River channel. Transco states that because of the strong currents in the Mississippi River, over time, the shallow, trenched crossings have become exposed and failed.

River replacement crossing have been presented for public comment. It is stated that the U.S. Army Corps of Engineers (COE) processing of Transco's application for a permit for this project involves the issuance of public notice which allows any members of the public to make comments by July 5, 1994.

Therefore, Transco states that in view of (1) the fast-approaching "window" period for installation of a directionally drilled pipeline at this Mississippi River location, (2) the essential need for the crossing to be completed in time to provide service during the upcoming winter heating season, (3) the *de minimis* environmental impact of Transco's project and (4) the opportunity for public participation already present in the COE processing of Transco's application for a permit, Transco requests that the Commission issue it a permanent certificate and construction clearance by August 1, 1994.

Transco also requests that if a permanent certificate is not issued by August 1, 1994, a temporary certificate and construction clearance be issued by that date so that Transco will be able to complete the crossing in time to provide service during the upcoming winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 18, 1994, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17046 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2009–003 North Carolina]

Virginia Electric & Power Co.; Notice of Change in Location of Scoping Meeting

July 8, 1994.

By notice dated July 1, 1994, the Commission indicated three scoping meetings related to the application for Non-project Use of Project Lands and Waters at the Gaston and Roanoke Rapids Project (FERC No. 2009), located on the Roanoke River.

The third scoping meeting was originally scheduled at the: OMNI Waterside Mall, 770 Waterside Drive, Norfolk, VA 23510.

The location of the third scoping meeting was then rescheduled to: Sheraton Inn, 3601 Atlantic Avenue, Virginia Beach, VA 23451.

The location of the third scoping meeting has new been rescheduled to: Virginia Beach Pavilion, 1000 19th Street, Virginia Beach, VA 23451.

The time and date of the third scoping meeting have not changed.

Any questions concerning the scoping process for the Non-project Use of Project Lands and Waters at the Gaston and Roanoke Rapids Project should be directed to Steve Edmondson at (202) 219–2653.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17058 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF94–124–000]

Weyerhaeuser Co.; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 8, 1994.

On June 22, 1994, Weyerhaeuser Company (Weyerhaeuser) of 33637 Weyerhaeuser Way South, Federal Way, Washington 98003, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, installation of the facility, referred to as the Chemical Recovery Facility (CRF), located at Carson Road, in Columbus, Mississippi, was completed in May of 1990. The CRF consists of a recovery boiler and a steam turbine generator, with an electric power production capacity of 64 MW. The primary energy source of the CRF is black liquor.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–17059 Filed 7–13–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5010–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: . Comments must be submitted on or before August 15, 1994.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Continuous Release Reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (EPA ICR # 1445.03; OMB # 2050–0086). This ICR requests renewal of the existing clearance.

Abstract: CERCLA 103(f)(2) provides relief from the peroccurrence notification requirements of section 103(a) for hazardous substance releases that are "continuous" and "stable in quantity and rate," provided that such releases are reported annually, or at such time as there is any statistically significant increase in the quantity of the release. Under the continuous release reporting regulation (CRRR), developed by EPA's Emergency Response Division in the Office of Solid Waste and Emergency Response, the term "continuous" includes routine, anticipated, intermittent releases, in addition to releases that are continuous without interruption. Similarly, the CRRR considers a release to be "stable in quantity and rate" if it is predictable and regular in quantity and rate of release.

The information collected under the CRRR is used to evaluate the acute and chronic effects of a continuous release in order to determine if a response action is necessary to prevent or mitigate any adverse effects. Any hazardous substance release that equals or exceeds its RQ warrants a timely evaluation of its source, emission rate, and chemical form, the proximity of sensitive populations or ecosystems, and the ambient conditions, to ensure the protection of human health, welfare, and the environment. The information is also used by State and local government authorities for emergency planning and response purposes.

To report a "continuous" release, the regulated community is expected to perform the following activities: (1) One or more initial phone calls to the National Response Center (NRC); (2) an initial written report to the EPA Region; (3) a follow-up written report to the EPA Region one year after the submission of the initial written report; (4) notification to the EPA Region of any changes in release information previously submitted; (5) the immediate notification of any statistically significant increase (SSI) in quantity of release to the NRC; (6) comply with EPA-mandated response activities; (7) and keep records on the release, including documentation of the annual evaluation. Activities (4), (5), and (6) are conditional activities expected to be necessary for only a fraction of the continuous releases reported each year.

Burden Statement: The estimated public reporting burden for this collection of information is estimated to require 10.8 hours per report, an average of 47.4 hours per affected facility. This estimate includes time for determining if the hazardous substance release qualifies for reporting under the continuous release final rule, gathering and maintaining the required information, completing and reviewing the telephone and written reports, and maintaining records.

Respondents: Any facility subject to the hazardous substance notification requirements of CERCLA section 103(a).

Estimated No. of Respondents: 1,700 affected facilities

Estimated No. of Responses Per Respondent: 4.4

Estimated Total Annual Burden on Respondents: 80,600 hours

Frequency of Collection: On occasion, when "continuous" releases meet the criteria of CERCLA 103(f)(2).

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (Mail Code: 2136), 401 M Street SW., Washington, DC 20460;

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

Dated: June 27, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–17007 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5011–4]

National Advisory Council for Environmental Policy and Technology (NACEPT); Recharter

This notice serves to announce that the U.S. Environmental Protection Agency's National Advisory Council for Environmental Policy and Technology (NACEPT) has been rechartered for two years effective June 10, 1994. The Council provides advice and counsel to the Administrator on broad cross-cutting domestic and international environmental policy and technology issues.

ADDRESSES: Office of Cooperative Environmental Management, (1601), U.S. Environmental Protection Agency, 401 M Street, Washington, DC. Attn: Abby J. Pirnie, Director.

FOR FURTHER INFORMATION CONTACT: Abby J. Pirnie or Gordon Schisler at the above address or call 202–260–7567.

Gordon Schisler,

Acting Director, Office of Cooperative Environmental Management.

[FR Doc. 94–17087 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–M

Science Advisory Board

[FRL–5011–6]

Notification of Public Advisory Committee Meeting(s); Open Meeting(s)

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

Environmental Futures Committee

The *Environmental Futures Committee* (EFC) of the Science Advisory Board (SAB) will conduct two public meetings one on August 2–3, 1994 at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA and a second on September 13–14, 1994 at the Gangplank Restaurant, 600 Water Street, SW., Washington, DC. All meetings will begin at approximately 8:30 am and adjourn daily by 5:00 pm.

The Environmental Futures Committee (EFC) was formed by the SAB at the request of Administrator Browner to assist the Agency in anticipating environmental problems, issues and opportunities. The charge to this Committee includes: developing a procedure for short and long-term forecasting of natural and anthropogenic developments which may affect environmental quality and its protection; develop detailed examinations procedures and apply them to some future developments; and draw implications from the examinations of future developments and recommend actions for EPA to address them. At these meetings, the EFC will receive briefings on Futures issues; discuss the overall progress of the project (including tracking the

activities of the SAB Standing Committees that are involved in the project); and continue work on its draft report.

These meetings are open to the public, but seating is limited and available on a first come basis. Any member of the public wishing further information concerning the meetings or who wishes to submit oral or written comments (at least 25 copies) should contact one of the Designated Federal Officials, Dr. Edward Bender, Science Advisory Board (Mail Code 1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 260–2562; FAX (202) 260–7118, or via the Internet at BENDER.EDWARD@EPAMAIL.EPA.GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 25 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: June 29, 1994.

Edward S. Bender,

Acting Staff Director, Science Advisory Board.

[FR Doc. 94–17086 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5011–5]

Meeting of the Small Town Environmental Planning Task Force

On July 27–28, 1994, the Small Town Environmental Planning Task Force will conduct its second meeting. The purpose of the meeting is to discuss and act on a draft policy paper and focus on how the group will accomplish their legislative mandates.

The Task Force is charged with identifying regulations developed pursuant to Federal environmental laws which pose significant compliance problems for small towns; identifying means to improve the working relationship between the Environmental Protection Agency and small towns; reviewing proposed regulations for the protection of environmental and public health and suggesting revisions that could improve the ability of small towns to comply with such regulations; and, identifying means to promote regionalization of environmental treatment systems and infrastructure serving small towns to improve the economic conditions of such systems and infrastructure.

The meeting will be held at the Savoy Suites Georgetown located at 2505 Wisconsin Avenue, NW in Washington, DC. The meeting will begin at 9:00 a.m. on July 27th and conclude at 5:00 p.m. on July 28th.

The Designated Federal Officer (DFO) for this Committee is Denise Zabinski. She is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–0419 or by writing to 401 M Street, SW. (1502), Washington, DC 20460.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available within thirty days after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the above number if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible.

Shelley H. Metzenbaum,

Associate Administrator, Office of Regional Operations and State/Local Relations.

[FR Doc. 94–17091 Filed 7–13–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Reissuance of License

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License No.	Name/address	Date reissued
2875	Solmar Logistics, Inc., 4544 Post Oak Place, Suite 148, Houston, TX 77027	June 20, 1994.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 94–17042 Filed 7–13–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First of America Bank Corporation; 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 August 3, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First of America Bank Corporation, Kalamazoo, Michigan, to engage *de novo* through its wholly-owned subsidiary First of America Securities, Inc., Kalamazoo, Michigan, in certain nonbanking activities pursuant to section 4(c)(8) of the Bank Holding Company Act, which include acting as "riskless principal" for and privately placing all types of securities, and underwriting and dealing in certain debt securities which include municipal revenue bonds, 1-4 family mortgage-related securities, consumer receivables-related securities, and commerical paper, as well as bank-eligible securities. Applicant is applying for authority to conduct these activities as approved by the Board. J.P. Morgan, 75 Federal Reserve Bulletin 192 (1989).

Board of Governors of the Federal Reserve System, July 8, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-17069 Filed 7-13-94; 8:45 am]

BILLING CODE 6210-01-F

North Bank Employee Stock Ownership Plan, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 3, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. North Bank Employee Stock Ownership Plan, Hale, Michigan, to acquire 12.57 percent of the voting shares of North Bank Corporation, Hale, Michigan, and thereby indirectly acquire North Bank, Hale, Michigan.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Joe Neill, Welch, Oklahoma, to acquire an additional 5.38 percent, for a total of 36.06 percent of the voting shares of Welch Bancshares, Inc., Welch, Oklahoma, and thereby indirectly acquire The Welch State Bank, Welch, Oklahoma.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Ronald E. Abbott, Paris, Texas, to acquire an additional .52 percent for a total of 25.42 percent; John W. Miles, Paris, Texas, to acquire an additional .52 percent for a total of 25.42 percent; and Linnie Ray Spencer, Paris, Texas, to acquire an additional .52 percent for a total of 25.42 percent of the voting shares of Texas Peoples National Bancshares, Inc., Paris, Texas, and thereby indirectly acquire Peoples National Bank, Paris, Texas.

Board of Governors of the Federal Reserve System, July 8, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-17070 Filed 7-13-94; 8:45 am]

BILLING CODE 6210-01-F

Peoples Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 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.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than August 8, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Peoples Bancorp, Inc., Marietta, Ohio, to acquire 11.67 percent of the voting shares of Woodsfield Savings & Loan Company, Woodsfield, Ohio, and thereby acquire and hold as an investment shares of the target. The target engages in permissible savings association activities pursuant to § 225.25(b)(9) of the Board's Regulation Y.

2. United Bancorp of Kentucky, Inc., Lexington, Kentucky, to acquire 100 percent of the voting shares of Harlan Federal Bank, a Federal Savings Bank, Harlan, Kentucky, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Old Kent Financial Corporation, Grand Rapids, Michigan, to engage in investing in community housing projects by making equity investments in the Michigan Capital Fund for Housing Limited Partnership I, pursuant to § 225.25(b)(6) of the Board's Regulation Y. This activity will be conducted in the State of Michigan. Comments regarding this application must be received at the Reserve Bank indicated not later than July 28, 1994.

Board of Governors of the Federal Reserve System, July 8, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-17071 Filed 7-13-94; 8:45 am]

BILLING CODE 6210-01-F

Richey Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 8, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Richey Bancorporation, Inc., Glendive, Montana, to become a bank holding company by acquiring 20 percent of the voting shares of Community First Bancorp, Inc., Glendive, Montana, and thereby indirectly acquire First Fidelity Bank, Glendive, Montana.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Pryor Bancorp, Inc., Pryor, Oklahoma, to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Pryor Creek, Pryor, Oklahoma.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Vallicorp Holdings, Inc., Fresno, California, to merge with King Mineral Bancorp, Inc., Visalia, California, and thereby indirectly acquire Mineral King National Bank, Visalia, California.

Board of Governors of the Federal Reserve System, July 8, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-17072 Filed 7-13-94; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Agency for Health Care Policy and Research; Notice of Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (Title 5, U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of July 1994:

Name: Health Care Policy and Research Special Emphasis Panel

Date and Time: July 21, 1994, 8:30 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Conference Room TBA, Rockville, Maryland 20852. Open July 21, 8:30 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications related to rural managed care systems and to address subjects related to the development and management of Rural Health Demonstration Centers which will be funded through cooperative agreements to be entered into with the Agency for Health Care Policy and Research (AHCPR).

Agenda: The open session of the meeting on July 21 from 8:30 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing complex and clinically-oriented grant applications. In accordance with the Federal Advisory Committee Act, Title 5, U.S.C., Appendix 2 and Title 5, U.S.C., 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594-2462.

Agenda items for all meetings are subject to change as priorities dictate.

Date: June 28, 1994.

Linda K. Demlo, Ph.D.,

Acting Administrator.

[FR Doc. 94-17025 Filed 7-13-94; 8:45 am]

BILLING CODE 4160-90-P

Centers for Disease Control and Prevention

[Announcement Number 440]

Postdoctoral Fellowship Training Program in Infectious Diseases

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a cooperative agreement to provide assistance for a Postdoctoral Fellowship Training Program in Infectious Diseases.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious diseases. (For ordering a copy of Healthy People 2000, see the section Where To Obtain Additional Information.)

Authority

This program is authorized under sections 301 42 U.S.C. 241), 317(k)(1) and 317(k)(2), (42 U.S.C. 247b(k)(1) and 247b(k)(2)), of the Public Health Service Act, as amended. Applicable program regulations are found in 42 CFR part 52, Grants for Research Projects.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Assistance will be provided only to university affiliated schools of medicine with infectious disease programs accredited by the Accreditation Council for Graduate Medical Education (ACGME).

Applicants meeting the above criteria are the most appropriate organizations to conduct the work under this cooperative agreement because: The purpose of this cooperative agreement is to respond to the documented shortage of physicians trained in academic infectious diseases. Correspondingly, the infectious disease departments of university schools of medicine are the legitimate organizations in which to base a program such as that proposed in this cooperative agreement.

Availability of Funds

Approximately $60,000 is available in FY 1994 to fund one to two awards. It is expected that the award will begin on or about September 30, 1994, and is made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of this cooperative agreement is to assist the recipient in the development of a Postdoctoral Fellowship Training Program in Infectious Diseases which utilizes the combined resources of the recipient and CDC. The goal is to improve the ability of the U.S. public health system to respond to the problem of emerging infectious diseases by increasing the number of academic infectious disease physicians with demonstrated skills in the public health aspects of infectious diseases and to provide them with the essential, pertinent clinical and research skills.

The clinical training portion of the Program will occur at the recipient's facilities while the research (basic laboratory or epidemiologic) training may occur at CDC facilities in Atlanta, Georgia. In order to assure that the clinical and research training areas are coordinated to provide a suitably congruent and expedient training program, it may be necessary for both fellows and program staff to frequently commute between CDC and recipient facilities.

The program will be designed for physicians with training in infectious diseases who wish to pursue a career in academic infectious diseases. It will offer a combination of research and clinical training which will lead to eligibility for certification in infectious diseases by the American Board of Internal Medicine, Subspecialty Board of Infectious Diseases (the cognizant member board of the American Board of Medical Specialties). Specific areas of research may include: Viral and rickettsial infections, nosocomial infections, antimicrobial resistance, acquired immunodeficiency syndrome, vector-borne infectious diseases, respiratory and food-borne bacterial diseases, sexually transmitted diseases, and parasitic diseases. Specific areas of clinical concentration may include: clinical rotations in infectious diseases, infectious diseases in transplant recipients, clinical microbiology, outpatient infectious diseases, pediatric infectious diseases, or infectious disease pharmacology. The recipient must be able to provide support for physicians of unusual ability and promise or proven achievement by giving them an opportunity to conduct clinical, laboratory, and epidemiologic research on significant public health problems caused by infectious diseases.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

1. Develop and conduct a Postdoctoral Fellowship Training Program (PFTP) in clinical and basic laboratory or epidemiologic research in prevention and control of infectious diseases of public health importance in which the clinical training will occur at recipient facilities and the research may occur at CDC facilities. Design and conduct the PFTP such that the clinical training and the research activities will be complementary and congruent.

2. Design and conduct the PFTP such that, upon completion of the fellowship, fellows will become eligible for certification in infectious diseases by the American Board of Internal Medicine.

3. Promote a wide distribution of the PFTP announcement soliciting applicants for fellowships. Contribute to the racial and gender diversity of the PFTP by assuring a wide distribution of the announcement among eligible women and minority physicians.

4. Provide preceptors for the training at recipient's facilities.

5. Develop a pre- and post-application review and approval process. Based on this review process, select applicants to be awarded fellowships.

6. Provide administrative support to fellows during their tenure including the payment of a stipend in accordance with the PHS policy.

7. Develop a plan for monitoring and evaluating the progress of fellows and progress toward achieving program goals.

B. CDC Activities

1. Provide assistance in the development and management of a PFTP.

2. Provide preceptors for training at CDC facilities.

3. Assist in the development of a plan for monitoring and evaluating the progress of fellows and of the progress toward achieving program goals.

Evaluation Criteria

The applications will be reviewed and evaluated based on the following criteria:

1. The extent to which the applicant describes the history of the organization for promoting the field of academic infectious diseases. The extent to which the applicant has promoted the field of academic infectious diseases by conducting regular national meetings and workshops devoted to current topics. The extent to which the applicant documents experience in education and training in academic infectious diseases, including documentation of relevant degree programs offered and evidence of experience in successfully preparing students for certification in infectious diseases by the American Board of Internal Medicine. (15 points)

2. The extent to which the applicant provides evidence of staff and program expertise. The extent to which the applicant provides evidence of a plan to actively promote racial and gender diversity in recruiting and placing postdoctoral fellowship candidates. (15 points)

3. The extent to which the applicant describes their experience in managing postdoctoral fellowship training programs for physicians. (30 points)

4. The extent to which the proposed plan, including the review process for the selection of fellows, addresses CDC program goals and objectives. The extent to which the proposed plan addresses all of the program requirements. The extent to which the proposed plan coordinates the clinical and research activities so that they comprise a complementary and congruent training program, including the extent to which the plan provides for periodic travel by fellows and program officials between CDC and applicant agency. (30 points)

5. The quality of the proposed plan for monitoring and evaluating progress in relation to program activities and objectives. (10 points)

6. The extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds. (not scored)

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372 (45 CFR part 100), Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided which demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Edward L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305, on or before August 15, 1994.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package and business management technical assistance may be obtained from Nealean K. Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, telephone (404) 842–6512.

Programmatic technical assistance may be obtained from Greg Jones, Program Specialist, Office of Administrative Services, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop C–19, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–2434. Please refer to Announcement Number 440 when requesting information regarding this program.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 8, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–17067 Filed 7–13–94; 8:45 am]

BILLING CODE 4163–18–P

[CDC–458]

Announcement of Cooperative Agreement to the World Health Organization

Summary

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a sole source cooperative agreement with the World Health Organization (WHO) for Hantavirus Pulmonary Syndrome (HPS) research in epidemiology, pathogenesis and vaccine development. The activities are intended to strengthen the knowledge base of the epidemiology and pathogenesis of hantaviruses, improve diagnostics capabilities, and assist in the further development of a hantavirus vaccine. These programs will provide information for public policy and for targeting strategies for hantavirus-associated respiratory disease prevention and treatment programs. Approximately $60,000 is available in FY 1994 to fund one award. It is expected that the award will begin on or about September 30, 1994, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may vary and are subject to change. A continuation award within an approved project period will be made on the basis of satisfactory progress and availability of funds.

The purpose for this program is to assist research on hantaviruses that will help researchers in the U.S. to understand the epidemiology and mechanisms of immunity and immunopathology of hantavirus infection. It is also intended that the agreement assure that proper observations of vaccine trials are reliably made should further vaccine development be necessary in this country.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the Section **Where to Obtain Additional Information.**)

Authority

This program is authorized under section 301(a) (42 U.S.C. 241(a)), 311 (42 U.S.C. 243), and 317(k)(3)(42 U.S.C. 247b(k)(3)) of the Public Health Service Act, as amended, Pub. L. 95–626. Applicable program regulations are found in 42 CFR part 52, Grants for Research Projects.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicant

Assistance will be provided only to the World Health Organization (WHO). No other applications are solicited. The program announcement and application kit have been sent to WHO.

WHO is the coordinating agency for WHO Regional Offices including Pan American Health Organization (PAHO), European Regional Office (EURO), South East Asia Regional Office (SEARO), and Western Pacific Regional Office (WPRO) where assistance will be provided. WHO is the appropriate agency to establish collaboration among

research groups to improve training, technology transfer and share comparative results.

The CDC will collaborate in providing: Consultation, scientific and technical assistance and training for transfer of laboratory technology and logistics management for study of epidemiology of pathogenic hantaviruses in the Americas; scientific and technical assistance in the observation of the inactivated vaccine trials in both China and Russia; and training and on-site assistance in technical areas of expertise for investigating the mechanisms of immunity and immunopathology of hantavirus infection in Korea.

Executive Order 12372 Review

This application is not subject to review under Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 93.283.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Where to Obtain Additional Information

If you are interested in obtaining additional information on this program, please refer to Announcement Number 458 and contact Gordon R. Clapp, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6508.

A copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1), referenced in the **SUMMARY** section, may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 8, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–17063 Filed 7–13–94; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 94F–0222]

Ramico Foods Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ramico Foods Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of calcium disodium EDTA (ethylenediaminetetraacetate) to promote color retention in canned, cooked fava beans.

DATES: Written comments on the petitioner's environmental assessment by September 12, 1994.

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

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9519.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3A4404) has been filed by Ramico Foods Inc., 8245 Le Creusot, St-Leonard, Quebec, CANADA H1P 2A2. The petition proposes to amend the food additive regulations in § 172.120 *Calcium Disodium EDTA* (21 CFR 172.120) to provide for the safe use of calcium disodium EDTA to promote color retention in canned coooked fava beans.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before September 12, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: July 1, 1994.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–17075 Filed 7–13–94; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[BPO–116–FN]

Medicare Program: Data, Standards, and Methodology Used To Establish Fiscal Year 1994 Budgets for Fiscal Intermediaries and Carriers

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

ACTION: Final notice.

SUMMARY: This notice is published in accordance with sections 1816(c)(1) and 1842(c)(1) of the Social Security Act which require us to publish the final data, standards, and methodology used to establish budgets for Medicare intermediaries and carriers. In this notice, we respond to the comments received in response to our notice of October 5, 1993 and we announce the adoption of the proposed data, standards, and methodology that we

used to establish the Medicare fiscal intermediary and carrier budgets for fiscal year (FY) 1994, beginning October 1, 1993, as final and without revision.

EFFECTIVE DATE: This final notice is effective on July 14, 1994.

FOR FURTHER INFORMATION CONTACT: Phyllis Mosmiller, (410) 966–7528.

SUPPLEMENTARY INFORMATION:

I. Background

Fiscal intermediaries and carriers are public or private entities that participate in the administration of the Medicare program by performing benefit payment and claims processing functions. On October 5, 1993, we published in the **Federal Register** (58 FR 51827) a proposed notice that described the data, standards, and methodology we intended to use to establish budgets for Medicare program carriers and fiscal intermediaries, referred to as Medicare contractors, for the Federal fiscal year (FY) 1994, beginning October 1, 1993. The notice was published in accordance with sections 1816(c)(1) and 1842(c)(1) of the Social Security Act (the Act), which require us to publish for public comments the data, standards, and methodology we propose to use to establish budgets for these Medicare contractors.

II. Provisions of the Proposed Notice

Following the same format we have used in prior notices, the October 5, 1993 proposed notice described the budget development process in general and gave an overview of how we intend to use the contractor budget data, standards, and methodology to establish the FY 1994 budgets.

We indicated in the notice that the contractor budget would be structured to coincide with the seven functional areas of responsibilities performed by fiscal intermediaries for Part A and nine functional areas of responsibilities performed by carriers for Part B of the Medicare program. The intermediary functional area responsibilities for Part A are: (1) Bill Payment, (2) Reconsideration and Hearings; (3) Medicare Secondary Payer; (4) Medical Review and Utilization Review; (5) Provider Audit (Desk Review, Field Audit, and Provider Settlement); (6) Provider Reimbursement; and (7) Productivity Investments. The carrier functional area responsibilities for Part B are: (1) Claim Payment; (2) Review and Hearing; (3) Beneficiary/Physician Inquiry; (4) Medical Review and Utilization Review; (5) Benefit Integrity (formerly Fraud and Abuse); (6) Medicare Secondary Payer; (7) Participating Physicians; (8) Provider Education and Training; and (9) Productivity Investments. These functions are funded from the Hospital Insurance Trust Fund (HI) and the Supplementary Medical Insurance Trust Fund (SMI).

We proposed that final funding for the contractor functions listed above would be allocated in accordance with the current claims processing trends, legislative mandates, administrative initiatives, current year performance standards and criteria, and the availability of funds appropriated by the Congress.

The FY 1994 Budget and Performance Requirements (BPRs) gave the contractors the authority to manage their budgets on a bottom line basis. Once funding is issued, each contractor will have the flexibility to optimally manage the budget in accordance with the statement of work contained in the BPRs. With the exception of the line item for Payment Safeguards, Productivity Investments, and "Other" line items, contractors have total flexibility in the use of funds. There is a 5 percent limitation on the amount of funds that may be shifted out of individual Payment Safeguards, with unlimited shifting into Payment Safeguards. Shifting into or out of Productivity Investments and "Other" line item funding, not governed by contract modifications, may not exceed 5 percent. Each "Other" line item is treated separately. The Productivity Investment line item is treated as a whole and not by a separate project. Funding that is governed by contract modifications may not be shifted to other functions or line items.

Final BPRs were sent to each contractor in June 1993 to assist in the preparation of their FY 1994 budget requests. The contractors are expected to perform the work as described in the BPR package and in accordance with the standards contained in the Contractor Performance Evaluation Program for FY 1994 that was published in the **Federal Register** (58 FR 51085) on September 30, 1993. While the contractors were preparing their budget requests, we developed preliminary budget allocations for the 16 functional areas that were based on historical patterns, workload growth, inflation assumptions, statistical forecasting reports, and any other available information.

A key step in this budget process is the development of contractor unit costs for processing Part A bills and Part B claims. As in FY 1993, the FY 1994 budget process incorporates a bottom line unit cost approach that encompasses all budget line items except Provider Audit, Productivity Investments, and Other. For funding the bills/claims processing function, the Complexity Index (CI) was continued in FY 1994. In the FY 1993 budget process, we arrayed the contractors' unit costs and identified the contractor at the 60th Percentile. Each contractor with a unit cost higher than the 60th Percentile was held to the 60th Percentile unit cost multiplied by the contractor's CI. Each contractor at or below the 60th Percentile retained its own unit cost multiplied by its CI. The only difference in the unit cost calculation in FY 1994 was the use of the 70th Percentile instead of the 60th Percentile.

It was also noted that limitations on the FY 1994 budget could require across-the-board cost cutting measures. Should this occur, each of HCFA's Regional Offices will determine the amount of budget reduction for its contractors.

III. Analysis of and Responses to Public Comments

In response to our request for public comment in the October 5, 1993 proposed notice, we received four timely items of correspondence. Comments were received from a national specialty association, a beneficiary advocacy association, and two national health insurance associations. Several issues that were raised by the commenters are outside the scope of the proposed notice and are not addressed in this final notice. However, those comments have been referred to the appropriate HCFA components for review and analysis to determine if operational adjustments are required or warranted. In this final notice, we are responding to the comments that are related to the proposed notice.

Comment: Three commenters reflected the concern that the proposed notice was published after the beginning of FY 1994. It was felt that untimely publication of the proposed notice denied interested parties the opportunity to comment before implementation of the budget.

Response: We have taken steps to publish these proposed notices as timely as possible. Although we did not publish the proposed notice before the beginning of the fiscal year (due to considerations in reviewing data and developing a budget), we did provide adequate opportunity for all affected parties to comment on the data, standards, and methodology. We were fully prepared to issue revised Budget and Performance Requirements (BPRs) to intermediaries and carriers based on the comments received. If necessary, we were prepared to renegotiate any

affected areas of intermediary and carrier budgets within the levels of funding made available by the Congress.

Comment: Two commenters indicated that the contractor unit cost calculations are derived from a Complexity Index (CI) formula which is methodologically incorrect.

Response: The CI includes full consideration of each individual contractor's workload mix and its actual costs as reported on the Final Administrative Cost Proposals. Therefore, we believe that the CI methodology is an equitable and efficient method of formulating contractor unit cost targets.

Comment: One commenter expressed the opinion that the notice lacks specificity about the development of the contractor budgets that the Omnibus Budget Reconciliation Act of 1987 was intended to elicit. The commenter also stated that most of the methodology described in the notice is general and could apply to any contractor budget year.

Response: The intent of the Congress requires that we provide sufficient description of the data, standards, and methodology used in determining the annual budgets. We believe the notice complies with that intent. The commenter is correct that some methodologies are retained from year to year. However, we always publish the most recent data. Additionally, legislative changes and budget priorities or constraints affect the standards.

Our notices are intended to include only the data, standards, and methodology to be used to establish budgets for fiscal intermediaries and carriers for a given fiscal year. Specific instructions on how to implement and monitor certain initiatives, for example, beneficiary inquiries, participating physician, physician payment reform, etc., are presented through program memoranda, manual instructions, BPRs, etc.

Comment: One commenter stated that HCFA has not provided adequate data, thus preventing the reader from reaching an informed opinion regarding the accuracy of the resulting budgets and unit costs.

Response: As we believe the Congress intended, our proposed notice provides a general description of the budget development process. Specific guidelines and data for the development of individual contractor budgets are found in the current year BPRs.

Comment: There was no mention of the Medicare Transaction System (MTS) in the proposed notice, as stated by another commenter.

Response: We believe that a discussion of MTS is not relevant to the development of the FY 1994 contractor budget.

Comment: One commenter stated that there were no "true budget negotiations" with the contractors in FY 1994.

Response: We disagree. The Regional Offices (ROs) held discussions with the intermediaries and carriers to develop their FY 1994 budgets. A constant effort was made by all ROs to work out any differences with the intermediaries and carriers. The resulting FY 1994 contractor budgets reflect the efforts made during these negotiations.

Comment: One commenter would like a policy to be established in situations where the budget appropriation is not passed by the Congress at the beginning of the fiscal year.

Response: If the budget appropriation is not passed at the beginning of a fiscal year, we inform all carriers and intermediaries through correspondence of the appropriate actions to take until the appropriation is passed. Therefore, we believe it is not necessary to describe these procedures in a notice whose only purpose is to provide a general description of the process to develop the budget.

Comment: Another commenter stated there is a lack of both description and assumptions for savings in every Medicare budget line item identified, including the savings identified by increasing goals for receiving Electric Means Claims (EMC) claims.

Response: The proposed notice is intended to be a general description of the budget process. Contractors receive more detailed information on savings descriptions and assumptions in the BPRs and during contract negotiations with ROs.

Comment: A commenter wanted to know whether the contract or the BPRs controls the contractor's ability to shift funds.

Response: Contractor budget flexibility refers to each contractor's authority to shift funds within its Notice of Budget Approval, once issued. The same rules apply in FY 1994 as in FY 1993. With the exception of the Payment Safeguards, Productivity Investments, and "Other" line items, contractors have complete flexibility with regard to the use of funds for "bottom line" functions/line items. As stated in the BPRs, "Funding governed by contract modifications *may not be shifted.*" Existing HCFA policy ensures that adequate funds always will be available to fund Payment Safeguards, an area that is vitally important to the protection of HI and SMI Trust Fund dollars.

Comment: A final commenter stated that, in the Benefits Integrity line, staff increases could improve the quality of claims processed and help eliminate problems which could appear to be fraud and abuse.

Response: We agree that proper staffing for the initial processing of fraud complaints/claims is important to the successful operation of the fraud units. HCFA will continue to fund this area so as to respond to fraud complaints in a timely and accurate manner.

IV. Provisions of the Final Notice

Based on our review of the comments submitted, we are making no changes to the data, standards, and methodology as published in our notice on October 5, 1993. Therefore, we are adopting as final the notice as proposed.

In accordance with Executive Order 12866, this final notice was not reviewed by the Office of Management and Budget.

V. Information Collection Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Authority: Sections 1816(c)(1) and 1842(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1) and 1395u(c)(1)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program.)

Dated: April 12, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 94–17010 Filed 7–13–94; 8:45 am]

BILLING CODE 4120–01–P

[BPD–799–GN]

Medicare Program; Medicare Secondary Payer (MSP) Amendments

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

ACTION: General notice.

SUMMARY: This notice—

1. Describes the changes made to the MSP for the disabled provision by sections 13561(b) and 13561(e) of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, hereafter referred to as OBRA '93; and

2. Provides guidance for employers and employer health plans so that they can provide to Medicare contractors and beneficiaries the information necessary to implement these changes.

Section 13561(b) changes the sunset date of the MSP for the disabled provision from October 1, 1995 to October 1, 1998.

Section 13561(e) modifies the MSP for the disabled provision to conform to the MSP for the working aged provision, so that for both groups, the MSP provision applies (and the group health plan is primary payer) only when coverage under the plan is based on "current employment status with an employer."

DATES: This notice is effective August 15, 1994.

FOR FURTHER INFORMATION CONTACT: Eve Fisher, (410) 966–5641.

SUPPLEMENTARY INFORMATION: Under the amendments made by section 13561(e) of OBRA '93, Medicare is the secondary payer for health services provided to disabled individuals who have large group health plan coverage based on the individual's own or a family member's "current employment status with an employer". An individual has current employment status if the individual is currently employed (including as a self-employed person), is the employer, or is associated with the employer in a business relationship. Before these amendments, Medicare was the secondary payer not only for disabled individuals who had coverage based on their own or a family member's current employment status but also for individuals who had coverage on some other basis, but who were treated as employees by their employers.

Under present law, Medicare continues to be secondary payer for disabled individuals who have LGHP coverage on the basis of their own or a family member's current employment. Medicare is now primary payer for disabled individuals who are not working and who are not family members of workers.

The statutory changes made by subsections (b) and (e) of section 13561 can be put into effect without first issuing regulations because it is clear on the face of the statute what the Congress intended. Moreover, we have already had to apply these provisions because the Congress made the changes applicable to services furnished on or after August 10, 1993. This notice will help to ensure that all affected parties are aware of, and able to comply with, the new provisions.

Employers that wish to have an evaluation of the Medicare payment status of disabled individuals affected by this amendment must send beneficiary information to the Medicare carrier (not the intermediary) in the State where the employer's home office is located. The beneficiary information includes the name, sex, birth date, social security number, and health insurance claim (HIC) number. The affected individuals are the disabled beneficiaries who are currently covered under the employer's LGHP but whose coverage is not based on the beneficiary's or a family member's current employment status. The employer must give the Medicare carrier written certification that each identified beneficiary has LGHP coverage on a basis other than current employment status.

After it receives and evaluates the beneficiary information, the Medicare carrier will give the employer written notice of the names and HIC numbers of the beneficiaries for whom Medicare will be primary payer, and the effective date of the changed payment status.

Disabled beneficiaries who are identified by the Medicare carrier, and who have delayed enrollment in Medicare Part B because their LGHPs were primary payers under the previous statutory provision, will have the opportunity to enroll in Part B during a special enrollment period. That period will cover the 7 months beginning with the month in which the employer notifies the beneficiary that it is no longer primary payer, or the month following the last month for which the LGHP makes primary payment, whichever is later.

The premium increases that generally apply to delayed enrollment will be waived for all months, beginning with January 1987, during which the beneficiary was covered under the LGHP. Entitlement to Medicare Part B may be established as of the first day of the month of filing for Part B, or retroactive to the first month for which the LGHP no longer makes primary payment, provided the beneficiary agrees to pay all premiums due.

The employer must provide to each affected beneficiary a written notice that includes the following information:

- A statement advising the beneficiary that the plan will no longer make primary payment for services furnished on or after a specified date no earlier than August 10, 1993.
- A statement advising the beneficiary of the opportunity for immediate enrollment in Medicare Part B.
- A statement showing all the months during which the beneficiary was covered under the LGHP.

The employer must also—

- Provide to the beneficiary a copy of the notice from the Medicare carrier certifying that Medicare is now the primary payer; and
- Advise the beneficiary to take the employer notice and the carrier notice to the Social Security office when he or she goes to enroll in Part B.

The information collection and recordkeeping requirements contained in the guidance, above, have been sent to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

In accordance with Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 12, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 94–17011 Filed 7–13–94; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

National Practitioner Data Bank: Change in User Fee

The Health Resources and Services Administration (HRSA), Public Health Service (PHS), Department of Health and Human Services (DHHS), is announcing a change in the fee that is charged entities authorized to request information from the National Practitioner Data Bank (Data Bank).

The current user fees of $6.00 for queries submitted by diskette or telecommunications network and $10.00 for queries submitted on paper have been in effect since July 1, 1993. Those fees were announced in the **Federal Register** on June 1, 1993 (58 FR 31215). That announcement indicated that the fee charged for authorized queries for information concerning an individual physician, dentist, or other health care practitioner would be reviewed periodically and revised as necessary, based upon experience. Any further changes in the fee, and the effective date of the change, would be announced in the **Federal Register**.

The Data Bank is authorized by the Health Care Quality Improvement Act of 1986 (the Act), title IV of Public Law 99–660, as amended (42 U.S.C. 11101 *et seq.*). Section 427(b)(4) of the Act authorizes the establishment of fees for the costs of processing requests for disclosure and of providing such information.

Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the Data Bank. Section 60.3 of these regulations should be consulted for the definition of terms used in this announcement. These regulations govern the reporting and disclosure of information concerning:

(1) Payments made for the benefit of physicians, dentists, and other health care practitioners as a result of medical malpractice actions or claims; and

(2) Certain adverse actions taken regarding the licenses, clinical privileges, and membership in professional societies of physicians and dentists.

Information in the Data Bank will be available to the following persons, entities, or their authorized agents:

(1) A hospital that requests information at the time a physician, dentist, or other health care practitioner applies for a position on its medical staff (courtesy or otherwise), or for clinical privileges at the hospital;

(2) A hospital that requests information concerning a physician, dentist, or other health care practitioner who is on its medical staff (courtesy or otherwise) or has clinical privileges at the hospital;

(3) A physician, dentist, or other health care practitioner who requests information concerning himself or herself;

(4) Boards of Medical Examiners or other State licensing boards;

(5) Health care entities which have entered or may be entering employment or affiliation relationships with a physician, dentist, or other health care practitioner, or to which the physician, dentist, or other health care practitioner has applied for clinical privileges or appointment to the medical staff;

(6) An attorney, or other individual representing himself or herself, who has filed a medical malpractice action or claim in a State or Federal court or other adjudicative body against a hospital, and who requests information regarding a specific physician, dentist, or other health care practitioner who is also named in the action or claim. However, this information will be disclosed only upon the submission of evidence that the hospital failed to request information from the Data Bank as required by § 60.10(a) of the regulations, and may be used solely with respect to litigation resulting from the action or claim against the hospital;

(7) A health care entity with respect to professional review activity;

(8) A Federal agency authorized to request information from the Data Bank. The agency must employ or otherwise engage under arrangement (e.g., such as a contract) the services of a physician, dentist, or other health care practitioner, or have the authority to sanction such practitioners covered by a Federal program and enter into a memorandum of understanding with DHHS regarding its participation in the Data Bank; or

(9) A person or entity requesting information in a form which does not permit the identification of any particular health care entity, physician, dentist, or other health care practitioner.

A reassessment of the full operating costs related to processing requests for disclosure of Data Bank information, as required by the DHHS Appropriations Act of 1994 (title II of Pub. L. 103–112, dated October 21, 1993), as well as the comparative costs of the various methods for filing and paying for queries, has resulted in a decision to offer a discount to users when they both query and pay via the telecommunications network as well as pay query fees by credit card or such other electronic transfer option as may be offered in the future. The options to query and pay user fees by these means facilitate the querying process and make it less costly to both users and the Data Bank than all other available options.

Accordingly, the Department is adjusting the user fee to provide a $1.00 discount per name per query submitted and paid via the method described above. This change will become effective July 14, 1994. All requests for information via the telecommunication network which are received on or after this date, and which are paid by credit card or such other electronic transfer method as may be available, will be subject to the new fee.

The criteria set forth in § 60.12(b) of the regulations and allowable costs as required by the Appropriations Act of 1994 were used in determining the amount of this new fee. The criteria include such cost factors as: (1) Electronic data processing time, equipment, materials, computer programmers and operators or other employees; and (2) preparation of reports—materials, photocopying, postage, and administrative personnel.

When a request is for information on one or more physician, dentist, or other health care practitioner, the appropriate total fee will be $6.00 (minus a $1.00 discount for submission and payment as described above; or, plus a $4.00 surcharge for queries filed on paper forms) times the number of individuals about whom information is being requested. For examples, see the table below.

The fee charged will be reviewed periodically, and revised as necessary, based upon experience. Any changes in the fee, and the effective date of the change, will be announced in the Federal Register.

Query method	Fee per name in query, by method of payment	Examples
Paper	$10.00 (irrespective of payment method)	10 names in query. 10×$10=$100.00.
Electronic (Diskette)	$6.00 (irrespective of payment method)	10 names in query. 10×$6=$60.00.
Electronic (telecom network)	$6.00 (if *not* paid electronically via credit card or other electronic means)	10 names in query. 10×$6=$60.00.
Electronic (telecom network)	$5.00 (*if paid electronically* via credit card or other electronic means)	10 names in query. 10×$5=$50.00.

Dated: July 8, 1994.

Ciro V. Sumaya,

Administrator.

[FR Doc. 94–17073 Filed 7–13–94; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism, August 8–9, 1994, Flow Building Conference Room 12501 Washington Avenue, Rockville, MD 20852.

This meeting will be open to the public from 7:30 a.m. to 8 a.m. on August 8 for a report on recent administrative developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Diana Widner, Office of Scientific Affairs, NIAAA, at (301) 443–4375.

In accordance with the provisions set forth in section 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 from 8 a.m. on August 8 to adjournment on August 9 for the review, discussion, and evaluation of intramural research programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the productivity of individual staff scientists, the disclosure of which would constitute a clearly unwarranted the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and the roster of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, National Institute on Alcohol Abuse and Alcoholism, Willco Building, Suite 409, 6000 Executive Blvd., Rockville, MD 20892, Telephone: 301/443–4376.

Substantive program information may be obtained from: Theodore Colburn, Ph.D., Room 1B58, Building 31, Telephone (301) 402–1226.

Dated: July 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–17083 Filed 7–13–94; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute: Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Biomedical Use of Novel Approaches for HIV–1 Vaccine Development.

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks an agreement with a pharmaceutical or biotechnology company to use a novel approach for HIV–1 vaccine development. This novel method for immunological focusing of protective effector responses uses site-directed mutagenesis to reduce the antigenicity of immunodominant epitopes for the purpose of preventing these epitopes from eliciting an immune response. One example of this is the introduction of N-linked carbohydrate. These immunodominant decoy epitopes (decotopes) function to focus the immune system away from responding to more conserved, immunorecessive and potentially more broadly protective domains. Any CRADA for the biomedical use of this technology will be considered.

ADDRESSES: Proposals and questions about this opportunity may be addressed to Dr. Raphe Kantor, Office of Technology Development, National Cancer Institute-Frederick Cancer Research and Development Center, PO Box B, Frederick, MD 21702–1201 Telephone (301) 846–5465, Facsimile (301) 846–6820.

SUPPLEMENTARY INFORMATION: To speed the research, development and commercialization of this technology, the National Cancer Institute at the Frederick Cancer Research and Development Center is seeking an agreement with a pharmaceutical or biotechnology company in accordance with the regulations governing the transfer of Government-developed agents for joint research, development, evaluation, and commercialization in the area of HIV–1 vaccine development.

The National Cancer Institute Laboratory of Tumor Cell Biology has been working on novel approaches to HIV–1 vaccine development. Epitope-specific neutralizing antibodies arise early in the course of HIV infection and are generally directed towards immunodominant determinants in the third hypervariable domain (V3) and gp41 transmembrane domain of the major envelope glycoprotein gp160. Since this domain is one of the more variable and functional immunodominant regions of gp120, variants can arise which escape the effects of neutralizing antibodies. Antibodies capable of neutralizing a broader range of isolates appear at a later time during the course of the infection. These more broadly neutralizing antibodies are not a simple collection of different V3-specific antibodies, but instead are composed mostly of antibodies that have a higher order of conformation and interfere with the binding of virus to CD4. To test whether this early response to V3 suppresses, delays or inhibits the subsequent response to other parts of the molecule, putative N-linked glycosylation sites were introduced into the V3 domain of the molecule in an effort to mask V3. Guinea pigs were first primed with live recombinant vaccinia virus expressing the N-linked glycosylation mutant, then boosted with purified recombinant protein. Neutralizing titers of antibodies were produced, a proportion of which were directed to other epitopes of gp120.

Background information including reprints and issued patents is available from the above-referenced address. Patent applications and pertinent information not yet publicly disclosed can be obtained under a Confidential Disclosure Agreement.

The CRADA aims include the rapid publication of research results and their timely commercialization. The CRADA partner will have an option to negotiate the terms of an exclusive or nonexclusive commercialization license to subject inventions arising under the CRADA.

The role of the Laboratory of Tumor Cell Biology, NCI–FCRDC, in this CRADA will include but not be limited to:

1. Providing recombinant reagent which has already been molecularly modified by said technology for further basic and clinical applications.

2. Continuing application of the technology to develop the most broadly protective immunogen by mapping the immunogenic hierarchy that is involved in decoying, attenuating, or suppressing the host immune response.

3. Using a library of primary HIV–1 isolates representing all major genotypes to test breath and magnitude of immune response.

4. Doing *in vitro* neutralization in primary cell-based assays (i.e. CD^+4 PBMCs, blood derived monocyte/macrophage, spleenic lymphocytes, liver macrophages and colonic epithelium).

5. Providing large-scale screening in *in vitro* neutralization using T-cell line based assays.

6. Developing alternative vaccine delivery systems.

7. Making available facilities and technology to express, analyze and purify recombinant HIV–1 gp160 protein, immunize ALACC-approved laboratory animals, raise and assay subsequent immunologic responses.

8. Performing animal safety and efficacy studies in HIV–1 chimp model.

9. Providing candidate immunogen for Phase I HIV–1 efficacy trial and immunotherapeutic trial.

10. Contracting, as needed, support services at NCI–FCRDC such as biomedical supercomputing, x-ray crystallography, and synthesis of monoclonal antibodies.

11. Publishing research results.

The role of the Collaborator will include but not be limited to:

1. Providing support for ongoing CRADA-related research in the development of vaccine candidates:

(a) Financial support to facilitate scientific goals,

(b) Technical or post doctoral level support for further design and *in vitro* and *in vivo* testing of subunit HIV–1 vaccine candidates,

(c) Financial and logistical support for clinical trials Phase I–III.

2. Using the proposed technology in the development of alternative delivery systems (i.e DNA, canary pox, BCG, polio, Salmonella, and attenuated vectors), and novel antigen presenting strategies.

3. Providing and implementing plans to independently secure future continuing supplies of candidate immunogens to assure continued preclinical and clinical development.

4. Providing plans and supporting clinical development leading to FDA approval of candidate immunogens.

5. Producing, packaging, marketing and distributing successful candidate immunogens.

6. Using the proposed technology for other novel biopharmaceutical applications.

7. Publishing research results.

Selection criteria for choosing the CRADA partner will include but not be limited to:

1. The ability to collaborate with NCI on further research and development of this technology. This ability can be demonstrated through experience and expertise in this or related areas of technology indicating the ability to contribute intellectually to the ongoing research and development.

2. The demonstration of adequate resources to perform the research, development and commercialization of this technology (e.g. facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the Collaborator's proposal.

3. The ability to perform clinical testing or trials, and obtain IND, NDA and FDA approval for a new drug, medical device or apparatus, diagnostic or therapeutic test, or treatment modality.

4. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology.

5. The demonstration of expertise in the commercial development, production, marketing and sales of products related to this area of technology.

6. The level of financial support the Collaborator will provide for CRADA-related Government activities.

7. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

8. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

9. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the equitable distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with (1) the grant of a research license to the Government when the CRADA collaborator's employee is the sole inventor, or (2) the grant of an option to negotiate for an exclusive or nonexclusive license to the Collaborator when the Government employee is the sole inventor.

The following is a listing of Dr. Robert Garrity's patent portfolio for this technology:

Application Title: "Immunological Focusing of Protective Effector Responses Using Site-Directed Mutagenesis or Chemical modification to Alter a Specific Protein or Peptide Immunogen for Use in Plant, Animal and Human Vaccines and Immunotherapies."

Inventors: Dr. Robert R. Garrity, Dr. Peter L. Nara, Dr. Jaap Goudsmit.

Dated: June 25, 1994.

Barbara M. McGarey, J.D.,

Deputy Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 94–17081 Filed 7–13–94; 8:45 am]

BILLING CODE 4140–01–P

National Cancer Institute: Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Biomedical Use of Novel Approaches for Lentivirus Vaccine Development

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks an agreement with a pharmaceutical or biotechnology company to use a novel approach for Lentivirus vaccine development. This novel method for immunological focusing of protective effector responses uses site-directed mutagenesis to reduce the antigenicity of immunodominant epitopes for the purpose of preventing these epitopes from eliciting an immune response. One example of this is the introduction of N-linked carbohydrate. These immunodominant decoy epitopes (decotopes) function to focus the immune system away from responding to more conserved, immunorecessive and potentially more broadly protective domains. Any CRADA for the biomedical use of this technology will be considered.

ADDRESSES: Proposals and questions about this opportunity may be addressed to Dr. Raphe Kantor, Office of Technology Development, National Cancer Institute-Frederick Cancer Research and Development Center, P.O. Box B, Frederick, MD 21702–1201 Telephone (301) 846–5465, Facsimile (301) 846–6820.

SUPPLEMENTARY INFORMATION: To speed the research, development and commercialization of this technology, the National Cancer Institute at the Frederick Cancer Research and Development Center is seeking an agreement with a pharmaceutical or biotechnology company in accordance with the regulations governing the transfer of Government-developed agents for joint research, development, evaluation, and commercialization in the area of Lentivirus vaccine development.

The National Cancer Institute Laboratory of Tumor Cell Biology has been working on novel approaches to HIV–1 vaccine development. Epitope-specific neutralizing antibodies arise early in the course of HIV infection and are generally directed towards immunodominant determinants in the third hypervariable domain (V3) and gp41 transmembrane domain of the major envelope glycoprotein gp160. Since this domain is one of the more variable and functional immunodominant regions of gp120, variants can arise which escape the effects of neutralizing antibodies. Antibodies capable of neutralizing a broader range of isolates appear at a later time during the course of the infection. These more broadly neutralizing antibodies are not a simple collection of different V3-specific antibodies, but instead are composed mostly of antibodies that have a higher order of conformation and interfere with the binding of virus to CD4. To test whether this early response to V3 suppresses, delays or inhibits the subsequent response to other parts of the molecule, putative N-linked glycosylation sites were introduced into the V3 domain of the molecule in an effort to mask V3. Guinea pigs were first

primed with live recombinant vaccinia virus expressing the N-linked glycosylation mutant, then boosted with purified recombinant protein. Neutralizing titers of antibodies were produced, a proportion of which were directed to other epitopes of gp120.

Background information including reprints and issued patents is available from the above-referenced address. Patent applications and pertinent information not yet publicly disclosed can be obtained under a Confidential Disclosure Agreement.

The CRADA aims include the rapid publication of research results and their timely commercialization. The CRADA partner will have an option to negotiate the terms of an exclusive or nonexclusive commercialization license to subject inventions arising under the CRADA.

The role of the Laboratory of Tumor Cell Biology, NCI–FCRDC, in this CRADA will include but not be limited to:

1. Providing recombinant reagent which has already been molecularly modified by said technology for further basic and clinical applications.

2. Providing technology to identify immunogenic domains that are involved in decoying or suppressing the response away from more broadly protective epitopes as demonstrated for HIV–1.

3. Providing expertise in vaccine design, vaccinia-based delivery, in vitro and in vivo assessment of immunogenic products and responses and development of relevant animal models.

4. Developing alternative vaccine delivery systems.

5. Contracting, as needed, NCI-FCRDC suppport services such as biomedical supercomputing, x-ray crystallography, and synthesis of monoclonal antibodies.

6. Publishing research results.

The role of the Collaborator will include but not be limited to:

1. Providing technical and scientific support for further design and *in vitro* and *in vivo* testing of candidate immunogens for Equine Infectious Anemia, Visna Maedi, Feline Immunodeficiency Virus, Simian Immundeficiency Virus, Bovine Immunodeficiency Virus, and Caprine Arthritis Encephalitis Virus.

2. Providing support for ongoing CRADA-related research in the development of vaccine candidates:

(a) Financial support to facilitate scientific goals,

(b) Financial and logistic support for development, efficacy testing of animal models of natural lentiviral infections.

(c) Financial and logistical support for animal clinical trials Phase I-III.

3. Using the proposed technology in the development of alternative delivery systems (i.e DNA, canary pox, BCG, polio, Salmonella, and attenuated vectors), and novel antigen presenting strategies.

4. Using the proposed technology for other novel animal biopharmaceutical applications.

5. Publishing research results.

Selection criteria for choosing the CRADA partner will include but not be limited to:

1. The ability to collaborate with NCI on further research and development of this technology. This ability can be demonstrated through experience and expertise in this or related areas of technology indicating the ability to contribute intellectually to the ongoing research and development.

2. The demonstration of adequate resources to perform the research, development and commercialization of this technology (e.g. facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the Collaborator's proposal.

3. The ability to perform clinical testing or trials, and obtain IND, NDA and FDA approval for a new drug, medical device or apparatus, diagnostic or therapeutic test, or treatment modality.

4. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology.

5. The demonstration of expertise in the commercial development, production, marketing and sales of products related to this area of technology.

6. The level of financial support the Collaborator will provide for CRADA-related Government activities.

7. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

8. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

9. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the equitable distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with (1) the grant of a research license to the Government when the CRADA collaborator's employee is the sole inventor, or (2) the grant of an option to negotiate for an exclusive or nonexclusive license to the Collaborator when the Government employee is the sole inventor.

The following is a listing of Dr. Robert Garrity's patent portfolio for this technology:

Application Title: "Immunological Focusing of Protective Effector Responses Using Site-Directed Mutagenesis or Chemical modification to Alter a Specific Protein or Peptide Immunogen for Use in Plant, Animal and Human Vaccines and Immunotherapies."

Inventors: Dr. Robert R. Garrity, Dr. Peter L. Nara, Dr. Jaap Goudsmit.

Dated: June 25, 1994.

Barbara M. McGarey, J.D.,

Deputy Director, Office of Technology Transfer National Institutes of Health.

[FR Doc. 94–17082 Filed 7–13–94; 8:45 am]

BILLING CODE 4140–01–P

National Institute on Deafness and Other Communication Disorders; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: July 14, 1994.

Time: 12 noon to adjournment.

Place: 6120 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Marilyn Semmes, Ph.D., Acting Chief, Scientific Review Branch, DEA NIDCD, 6120 Executive Boulevard, Suite 400C, Bethesda, MD 20892, 301/496–8683.

Purpose/Agenda: To review and evaluate a grant application.

The meeting will be closed in accordance with the provisions set forth in Section 552b(c)(4) and 553b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program no. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: July 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–17084 Filed 7–13–94; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Cardiovascular Consequences of Sleep Apnea.
Date: July 26–27, 1994.
Time: 7:00 p.m.
Place: Holiday Inn Bethesda, Bethesda, Maryland.
Contact Person: Anthony M. Coelho, Jr., Ph.D., Scientific Review Administrator, 5333 Westbard Avenue, Room 648, Bethesda, Maryland 20892, (301) 594–7485.
Purpose/Agenda: To review and evaluate grant applications.

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. Applications and/or 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/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: July 7, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–17085 Filed 7–13–94; 8:45 am]

BILLING CODE 4140–01–M

Office of Inspector General

Program Exclusions: June 1994.

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of June 1994, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all other Federal non-procurement programs.

Subject city, state	Effective date
Program-Related Convictions	
Abrahamsen, Svend E., Saddle River, NJ	07/17/94
Bartlow, Brian, Toms River, NJ	07/17/94
Benelli, Theresa A., Mesa, AZ	07/05/94
Berger, Valery A., Brooklyn, NY	06/30/94
Boateng, Joshua Yaw, Wyncote, PA	07/17/94
Bristol, Marcel C., Brooklyn, NY	06/30/94
Cadamatre, John, Gray Court, SC	06/30/94
Corcoran, James, Louisville, KY	06/30/94
East, Anthony O., Brooklyn, NY	06/30/94
Erickson, Bruce L., Great Falls, MT	07/18/94
Escalante, Gilberto, Miami, FL	06/30/94
Gandy, Paul S., Littleton, CO	06/30/94
Goldstein, Robert Sanford, New Rochelle, NY	07/17/94
Great Falls Eye Surgery Center, Great Falls, MT	07/18/94
Henriquez, Jason C., Flushing, NY	06/30/94
Khalil, Rosaly Saba, Palisades Park, NY	06/30/94
Khan, Javid, Briarwood, NY	06/30/94
Lo, Lancaster, Flushing, NY	06/30/94
Majid, Charlene, Queens, NY	06/30/94
Majid, Muhammad A., Otisville, NY	06/30/94
Provorse, Deborah, Great Valley, NY	07/17/94
Read, Lynn Ray, Lovelady, TX	06/30/94
Ross, Gilbert, Great Neck, NY	06/30/94
Sadaphal, Audrey, N. Valley Stream, NY	06/30/94
Schaffer, Marvin, New York, NY	06/30/94
Stress X-Ray, Inc., Otisville, NY	06/30/94
Turner, Joseph, Baltimore, MD	06/30/94
Williams, Deborah, Bergenfield, NJ	06/30/94
Yobo, Charles A., Farmingdale, NY	07/17/94
Patient Abuse/Neglect Convictions	
Alhanati, Craig Kevin, Oxnard, CA	07/17/94
Arakaky, Franz Abel, Arlington, VA	06/30/94
Budnick, Jean, Ellicott City, MD	06/30/94
Caldwell, Curllan, Elba, AL	06/30/94
Davis, Sally, Sardis, MS	06/30/94
Douglas, Janet Eve, Debary, FL	06/30/94
Fordham, Paul A., Kearns, UT	06/30/94
Haywood, Robert, Mound Bayou, MS	06/30/94
Johnson, Marion Leon, Jr., Bryan, TX	07/17/94
Jones, Teledo, Bossier City, LA	06/30/94
Larson, Mildred L., Stanton, IA	07/05/94
Lee, Gloria W., Archer, FL	06/30/94
Martin, Peggy Diane, Northport, AL	06/30/94
Moore, Gordon D., Fitchburg, MA	06/30/94
Morton, Denise B., Baltimore, MD	06/30/94
Pearson, Heather D., Conway, AR	07/17/94
Philpott, Joel, Dunn, NC	06/30/94
Rhim, Carol Anne, Lockport, NY	06/30/94
Richards, Robert Lorenzo, Las Vegas, NV	07/05/94
Salinas, Marco A., Perryville, AZ	07/05/94
Solarez, Adam A., Douglas, AZ	07/05/94
Thomas, Lowery M., Baker, LA	07/17/94
Wilson, Tonya, Dunn, NC	06/30/94
Wirag, Pamela, Pelham, NY	06/30/94
Zimmerman, Selma, Carlisle, AR	06/30/94
Conviction for Health Care Fraud	
Armijo, Jose B., Albuquerque, NM	07/17/94
Shead, Annette Townley, St. Louis, MO	07/17/94
Controlled Substance Convictions	
Derosa, Michael F., Morgantown, WV	06/30/94
Mercaldo, Antonio F., Lopez, PA	06/30/94
Njo, Soen Hien, Maple Glen, PA	06/30/94
Peters, Vaughn, Pittsburgh, PA	06/30/94
License Revocation/Suspension	
Berges, Benjamin, Freeport, NY	07/17/94
Davis, Daniel, Greenfield, MA	06/30/94
Dell, Stephen O., Durham, NH	06/30/94
Great Neck Dental, P.C., Great Neck, NY	06/30/94
Griff, Leonard Clark, Philadelphia, PA	06/30/94
Harkins, Frances Anne, Newport News, VA	06/30/94
Krugman, Lawrence G., San Luis Obispo, CA	07/05/94
Lee, Nora L., Brownsville, MN	07/05/94
Prager, Harris J., Glen Burnie, MD	06/30/94
Rogan-Wilson, Laura, Gibsonia, PA	06/30/94
Shaiken, Eugene, San Luis Obispo, CA	07/05/94
Siggers, Richard L., La Mirada, CA	07/05/94
Solomon, Neil, Towson, MD	06/30/94
Vogler, Robert L., Lakewood, CA	07/05/94
Entities Owned/Controlled by Convicted	
Home Medical Equipment Company, Shepherdsville, KY	06/30/94
Montgomery County Taxi, Gaithersburg, MD	06/30/94
The Medicine Shoppe, Colorado Springs, CO	06/30/94
The Medicine Shoppe, Colorado Springs, CO	06/30/94

Subject city, state	Effective date
Default on Heal Loan	
Bailey, David W., Chicago, IL	07/05/94
Beaver, Richard D., Downieville, CA	07/05/94
Claire, James F., Voorhees, NJ	07/17/97
Clark, Russell A., Everett, WA	07/05/94
Cresswell, Diane H., Whittier, CA	07/17/94
Crooks, Joan M., Sedona, AZ	07/05/94
Dixson, David R., Jr., Barnwell, SC	07/17/94
Fiorella-Holder, Michelle Ann, Louisville, KY	07/17/94
Fulton, John R., Oceanside, CA	07/05/94
Graham-Nixon, Denise M., Jackson, LA	06/30/94
Green, Kenneth W., Jr., Dallas, TX	06/30/94
Haileselassie, Hapte, Riyadh, Saudi Arabia	06/30/94
Harms, Eugene G., Ada, OK	07/17/94
Hicks, Wesley L. Jr., Angola, NY	07/17/94
Holaday, Howard R., Jackson, MS	07/17/94
Hoskins-Akale, Denise S., Cottage Grove, MN	07/05/94
Johnson, Anthony, Detroit, MI	07/17/94
Kimbrough, Robert L., Lansing, MI	07/17/94
Lindsey, Scott B., Akron, OH	07/17/94
Millar, Mark A., Mesa, AZ	07/05/94
Mistretta, John P., Hermitage, PA	06/30/94
Mobley, Derrick K., Philadelphia, PA	06/30/94
Moseley, Clarence D., Houston, TX	06/30/94
Moussaed, Emile K., Ypsilanti, MI	07/17/94
Nielsen, David D., Yaound, Cameroun	06/30/94
Ohrdorf, Ronald T., Colorado Springs, CO	06/30/94
Pallas, James M., Lahabra, CA	07/05/94
Pettaway, Reginald, Washington DC	06/30/94
Pham, Greg N., Fountain Valley, CA	07/05/94
Ras, Russell T., Countryside, IL	07/05/94
Sandburg, Donald Douglas, Barrington, IL	07/17/94
Sanderson, Scott F., Stoughton, WI	07/17/94
Sengstacken, Mark A., Marshall, MO	07/05/94
Shaver, Dennis D., Kerrville, TX	06/30/94
Siggers, Ralph A., Berea, OH	07/05/94
Smalley, Daniel R., Wellston, MI	07/17/94
Sprecher, Kyle O., Webster, TX	06/30/94
Stephenson, David W., Newburgh, IN	07/05/94
Stuart, William E. Jr., Chicago, IL	07/05/94
Triden, Thomas Arne, Maple Grove, MN	07/05/94
Turner, Demi M., Newark, NJ	07/17/94
Westerfield, Michael J., Conroe, TX	06/30/94

Dated: July 7, 1994.

James F. Patton,

Director, Health Care Administrative Sanctions, Office of Investigations.

[FR Doc. 94–17110 Filed 7–13–94; 8:45 am]

BILLING CODE 4150–04–P

Social Security Administration

1994 Advisory Council on Social Security; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces a meeting of the 1994 Advisory Council on Social Security (the Council).

DATES: July 29, 1994, 9:00 a.m. to 4:00 p.m.

ADDRESSES: Embassy Row Hotel, 2015 Massachusetts Avenue, NW, Washington, DC 20036, (202) 939–4123.

FOR FURTHER INFORMATION CONTACT: Dan Wartonick, 1994 Advisory Council on Social Security, Room 639H, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, (202) 205–4861.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;
- General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24–25, 1994. A notice of that meeting was published in the **Federal Register** on June 13, 1994 (59 FR 30367).

II. Agenda

The Council will discuss:

- Matters relating to technical panels of experts; and
- Regional hearings around the country.

The agenda items are subject to change as priorities dictate.

The meeting is open to the public to the extent that space is available. Interpreter services for persons with hearing impairments will be provided. A transcript of the meeting will be available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Council.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance.)

Dated: July 11, 1994.

Dan Wartonick,

Acting Executive Director.

[FR Doc. 94–17226 Filed 7–13–94; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–94–3683; FR–3560–N–04]

Announcement of Funding Awards for Fair Housing Initiatives Program—Fiscal Year 1993

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Announcement of Funding Awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development

Reform Act of 1989, this document notifies the public of FY 1993 funding awards made under the Fair Housing Initiatives Program (FHIP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Fair Housing Assistance and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–3216. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR Part 125.

The FHIP has three funding categories: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative.

In a NOFA published in the **Federal Register** on December 22, 1993 (58 FR 68000), the Department announced the availability of $8.8 million in funds for FHIP. On February 25, 1994 (59 FR 9235), HUD published a notice NOFA that made an additional $800,000 available, for a total of $9.6 million in FY 1993 funding.

The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of funding awards, as follows below.

Dated: June 23, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

FY 93 Fair Housing Initiatives Program Awards

Applicant name and address	Contact name and phone number	Region of project area	Single or multi-year funding	Amount requested (amount for only first year reflected for multi-year projects)
Administrative Enforcement Initiative				
Massachusetts Commission Against Discrimination, One Ashburton Place, Room 601, Boston, MA 02108.	Michael Duffy, 617–727–3990 ...	1	S	$160,500
Massachusetts Commission Against Discrimination, One Ashburton Place, Room 601, Boston, MA 02108.	Michael Duffy, 617–727–3990 ...	1	S	[1] 100,546.46
Illinois Department of Human Rights, 100 W. Randolph Street, Suite 10–100, Chicago, IL 60601.	Yoon Lee, 312–814–6239	5	S	130,540
City of Dallas, 1500 Marilla Street, Room 1BN, Dallas, Texas 75201.	Rosie Norris, 214–670–5677	6	S	141,497
State of Colorado-Division of Civil Rights, 1560 Broadway, Suite 1050, Denver, CO 80202–5143.	Robert Wintersmith, 303–894–7822, ext 327.	8	S	259,803
King County Office of Civil Rights and Compliance, 516 Third Avenue, E224 King County Courthouse, Seattle, WA 98104.	Manfert Lee, 206–296–7592	10	S	207,113.54
Education and Outreach Initiative—National Program Component				
Massachusetts Housing Finance Agency, 50 Milk Street, Boston, MA 02109.	Roger Macleod, 617–451–3480	1	S	196,280
Research Foundation of the State, University of New York, 520 Lee Entrance, Suite 211, Amherst, NY 14228.	Kim Pachetti, 716–645–3472	2	S	199,896
National Fair Housing Alliance, 927 15th Street, NW., Suite 600, Washington, DC 20005.	Shanna Smith, 202–898–1661 ..	3	S	199,554
National Association of Protection and Advocacy Systems, 900 Second Street, NE., Suite 211, Washington, DC 20002.	Curtis L. Deckeer, 202–408–9514.	3	S	126,028
Fair Housing Council, 835 West Jefferson Street, Room 108, Louisville, KY 40202.	Galen Martin, 502–583–3247	4	S	[2] 78,252
Pacific Nonprofit Training Center, 4039 North Overlook Terrace, Portland, OR 97227.	Vikki Rennick, 503–287–6403 ...	10	S	199,990
Education and Outreach Initiative—Regional/Local/Community-Based Component				
Boston Fair Housing Commission, City Hall, One City Hall Place, Room 966, Boston, MA 02201.	Victoria Williams, 617–635–4408.	1	S	50,000
Housing Help, Inc., 91–101 Broadway, Suite 6, Greenlawn, NY 11740.	Doug Aloise, 516–754–0373	2	S	50,000

FY 93 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name and address	Contact name and phone number	Region of project area	Single or multi-year funding	Amount requested (amount for only first year reflected for multi-year projects)
Prince William Co. Human Rights Commission, 3421 Commission Court, Lake Ridge, VA 22192.	Evelyn Ellington, 703–792–4680	3	S	56,662
Durham Affordable Housing Coalition, 331 West Main Street, Suite 408, Durham, NC 27701.	Peter Skillern 919–683–1185	4	S	94,494
West Jackson Community Development Corporation, 1060 John R. Lynch Street, Post Office Box 10325, Jackson, MS 39289–0325.	Howard Boutte, Jr., 601–352–6993.	4	S	89,060
City of Southfield, 26000 Evergreen Road, Southfield, MI 48076 .	Ruth Elias, 810–354–4400	5	S	[3] 42,138
Toledo Community Housing Resource Board, 2116 Madison Avenue, Toledo, OH 43624–1131.	Lisa Rice-Coleman, 419–243–6163.	5	S	115,112
Austin Tenants' Council, Inc., 1619 East First Street, Austin, TX 78702.	Katherine Stark, 512–474–0197	6	S	52,000
Equal Housing Opportunities Council, 7317 Cornell, St. Louis, MO 63130.	John Farley, 618–692–1960	7	S	112,938
Council for Concerned Citizens, 1601 2nd Avenue North, 2nd Floor, Great Falls, MT 59401.	Toni Austad, 406–727–9136	8	S	116,200
Southern Arizona Housing Center, Post Office Box 2441, Tucson, AZ 85702–2441.	Charlotte Wade, 602–798–1568	9	S	98,803
City of Tacoma Human Rights Department, Room 808, 747 Market Street Tacoma, WA 98402–3779.	Allen Correll, 206–591–5151	10	S	122,593
Fair Housing Organizations Initiative—Continuing Development Component				
Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association, 294 Washington Street, Boston, MA 02108.	Ozell Hudson, 617–482–1145 ...	1	S	209,386
Civic League of Greater New Brunswick, 47–49 Throop Avenue, New Brunswick, NJ 08901.	C. Roy Epps, 908–247–9066	2	S	99,708
Fair Housing Partnership of Greater Pittsburgh, Inc., Bishop Boyle Center 120 E. Ninth Avenue, Homestead, PA 15120.	Kathy Fletcher, 412–361–8555 .	3	S	143,968
Fair Housing Council, 835 W. Jefferson Street, Room 108, Louisville, KY 40202.	Galen Martin, 502–583–3247	4	S	121,773
Chicago Lawyers' Committee for Civil Rights Under Law, Inc., 185 North Wabash Avenue, Suite 2110, Chicago, IL 60601–3607.	Derrick Ford, 312–630–9744	5	S	88,666
Arkansas Delta Housing Corporation, Post Office Box 410, 1343 South Washington, Forrest City, AR 72335.	Clarence Wright, 501–633–0121	6	S	[4] 93,797
Legal Aid of Western Missouri, 1005 Grand, Suite 600, Kansas City, MO 64106.	Richard F. Halliburton, 816–474–6750.	7	S	170,180
Billings Fair Housing Alliance, Inc., 208 North 29th Street, Suite 228, Billings, MT 59102.	Howard McCarthy, 406–252–9324.	8	S	30,000
Mid Peninsula Citizens for Fair Housing, 457 Kingsley Avenue, Palo Alto, CA 94301.	Beverly Lawrence, 415–327–1718.	9	S	42,522
Fair Housing Organizations Initiative—Establishing New Organizations Component				
Metro Fair Housing Services, Inc., 1083 Austin Avenue, NE., Post Office Box 5467, Atlanta, GA 31107.	Robert M. Shifalo, 404–221–0874.	4	S	251,271
Arkansas Fair Housing Council, c/o Dan Pless, 103 W. Capitol, Suite 1115, Little Rock, AR 72201.	Dan Pless, 501–376–7913	6	S	200,000
Arkansas Fair Housing Organization, 523 W. 15th Street, Little Rock, AR 72202.	Johnnie Pugh, 501–376–7151 ...	6	M	250,209
Family Housing Advisory Services, Inc., 2416 Lake Street, Omaha, NE 68111.	Deborah Brockman, 402–444–7921.	7	M	200,000
Metro St. Louis—Equal Housing Opportunity Council, 7317 Cornell, St. Louis, MO 63130.	John E. Farley, 618–692–2680 .	7	M	215,743
Council for Concerned Citizens, 601 2nd Avenue North, 2nd Floor, Great Falls, MT 59401.	Toni Austad, 406–727–9136	8	M	230,099
Idaho Legal Aid Services, Inc., 310 North 5th Street, Boise, ID 83702.	Kelly Miller, 208–336–8980	10	M	216,178
Northwest Fair Housing Alliance, 2124 East Fifth Street, Spokane, WA 99202.	Florence Brassier, 804–367–8543.	10	M	[5] 36,500
Private Enforcement Initiative				
Connecticut Housing Coalition, Inc., 30 Jordan Lane, Wethersfield, CT 06109.	Jeffrey Freiser, 203–563–2943 ..	1	S	285,177
ACORN New England Fair Housing Project, 1024 Elysian Field, New Orleans, LA 70117.	Elena Hanggi, 501–376–2528 ...	1	M	95.000

FY 93 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name and address	Contact name and phone number	Region of project area	Single or multi-year funding	Amount requested (amount for only first year reflected for multi-year projects)
Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association, 294 Washington Street, Boston, MA 02108.	Ozell Hudson, 617–482–1145 ...	1	S	379,315
Long Island Housing Services, Inc., 1747 Veterans Memorial Highway, Suite 42A, Islandia, NY 11722.	David Berenbaum, 516–582–2727.	2	M	286,416
Westchester Residential Opportunities Inc., 470 Mamaroneck Avenue, Suite 410, White Plains, NY 10605.	Miriam Buhl 914–428–4507	2	M	150,839
Fair Housing Council of Northern New Jersey, 131 Main Street, Hackensack, NJ 07631.	Lee Porter, 201–489–3552	2	S	[6]205,012.40
Housing Opportunities Made Equal, Inc., 700 Main Street, Buffalo, NY 14202.	Scott Gehl, 716–854–1400	2	M	93,634
Legal Aid Society of New York, 15 Park Row, 22nd Floor, New York, NY 10038.	Archibald R. Murray, 212–577–3313.	2	S	92,500
New York Lawyers for the Public Interest, 30 West 21st Street, 9th Floor, New York, NY 10010.	Joan Vermeulen, 212–727–2270	2	M	113,153.50
The Fair Housing Council of Suburban Philadelphia, 2 South 69th Street, Suite 404, Upper Darby, PA 19082.	James Berry, 610–352–4075	3	S	198,612.60
Tenants' Action Group of Philadelphia, 21 South 12th Street, 12th Floor, Philadelphia, PA 19107.	Elizabeth Hersh, 215–575–0700	3	S	165,000
Greater Birmingham Fair Housing Center, 2000 1st Avenue North, Suite 529, Birmingham, AL 35203.	Bobby Wilson, 205–324–0111 ...	4	S	166,094
ACORN Peachtree Coalition for Fairness in Housing, 1024 Elysian Field, New Orleans, LA 70117.	Elena Hanggi, 501–376–2528 ...	4	M	95,000
Metropolitan Milwaukee Fair Housing Council, 600 East Mason Street, Suite 200, Milwaukee, WI 53202.	William Tisdale, 414–278–1240	5	S	305,511
HOPE Fair Housing Center, 154 South Main Street, Lombard, Illinois 60148.	Bernard Kleina, 708–495–4846 .	5	S	97,545
Access Living of Metropolitan Chicago, 310 South Peoria, Suite 201, Chicago, IL 60607.	James Charlton, 312–226–5900	5	M	199,558
ACORN Midwest Fair Housing Consortium, 1024 Elysian Field, New Orleans, LA 70117.	Elena Hanggi, 501–376–2528 ...	5	M	95,000
ACORN Southern Fairness in Housing Coalition, 1024 Elysian Field, New Orleans, LA 70117.	Elena Hanggi, 501–376–2528 ...	6	M	95,000
ACORN Missouri Consortium for Fair Housing, 1024 Elysian Field, New Orleans, LA 70117.	Elena Hanggi, 501–376–2528 ...	7	M	95,000
Council for Concerned Citizens, Inc., 601 2nd Avenue North, 2nd Floor, Great Falls, MT 59401.	Toni Austad, 406–727–9136	8	M	228,840
Marin Housing Center Fair Housing Program, 88 Belvedere Street, Suite A–1, San Rafael, CA 94901.	Nancy Kenyon, 415–457–5025 .	9	S	105,233
Fair Housing Congress of Southern California, 3731 Wilshire Blvd., Suite 635, Los Angeles, CA 90010.	Michelle White, 213–365–7184 .	9	M	120,000
Project Sentinel, 430 Sherman Avenue, Suite 308, Palo Alto, CA 94306.	Ann Marquart, 415–321–6291 ...	9	M	209,000
ACORN Fair Housing for Washington Coalition, 1024 Elysian Field, New Orleans, LA 70117.	Elena Hanggi, 501–376–2528 ...	10	M	95,000

[1] Approved for $429,197 if additional funds are available.
[2] Approved for $139,283 if additional funds are available.
[3] Approved for $130,000 if additional funds are available.
[4] Approved for $113,915 if additional funds are available.
[5] Approved for $236,496 if additional funds are available.
[6] Approved for $287,836 if additional funds are available.

[FR Doc. 94–17028 Filed 7–13–94; 8:45 am]
BILLING CODE 4210–28–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3714; FR–3397–N–05]

NOFA for Public and Indian Housing Family Investment Centers: Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Amendment of NOFA.

SUMMARY: This notice further amends a NOFA that was published in the **Federal Register** on February 28, 1994 (59 FR 9592), and was amended on April 19, 1994 (59 FR 18570), and June 9, 1994 (59 FR 29816). This further amendment: (1) Strikes language referencing an inapplicable section of the National Affordable Housing Act; and (2) includes new application submission requirements for applicants that apply to undertake renovation,

conversion, and new construction activities.

FOR FURTHER INFORMATION CONTACT: Marcia Y. Martin, Office of Resident Initiatives (ORI), or Dom Nessi, Director, Office of Native American Programs (ONAP), Department of Housing and Urban Development, 451 7th Street, S.W., Washington, DC 20410; telephone numbers: ORI (202) 708–4214; and ONAP (202) 708–1015 (these are not toll free numbers). Hearing- or speech-impaired persons may use the Telecommunications Device for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–8339 or 202–708–9300 (not a toll-free number) for information on the program.

SUPPLEMENTARY INFORMATION: On February 28, 1994, the Department published its NOFA for Public and Indian Housing Family Investment Centers (59 FR 9592). This NOFA was amended for the first time on April 19, 1994 (59 FR 18570), and then on June 9, 1994 (59 FR 29816); it is being amended further by this notice. This amendment addresses application submission requirements for renovation, conversion, and new construction activities, which were inadvertently left out of the NOFA in the section on Checklist of Application Submission Requirements (Section III.B).

In addition, the NOFA is revised to clarify that the applicability of section 957 of the National Affordable Housing Act (42 U.S.C. 12714) (NAHA) is subject to appropriations. Because funds have not been appropriated for the implementation of section 947, it does not apply at this time.

Accordingly, FR Doc. 94–4413, the NOFA for Public and Indian Family Investment Centers, published at 59 FR 9592 (February 28, 1994), and amended at 59 FR 18570 (April 19, 1994), and 59 FR 29816 (June 6, 1994), is further amended as follows:

1. On page 9595, column 2, paragraph (b) of Section I.F(5), headed "*NAHA*", is amended by adding the following two new sentences at the end:

(b) * * * However, section 957 of NAHA is subject to appropriations and, until such time as those appropriations have materialized, this section of the NOFA does not apply. The Department will provide notification if section 957 becomes effective.

2. On page 9598, column 3, the following new paragraphs (13) through (17) are added at the end of Section III.B, "Applications for Renovation/Conversion Activities Only must contain the following information:"

(13) A description of the need for supportive services that will be provided in the proposed facility by eligible residents;

(14) A description of public or private sources of assistance that can reasonably be expected to fund or provide supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including nonprofit organizations);

(15) Certification from an appropriate agency that the provision of supportive services is well designed to provide families better access to educational and employment opportunities and that there is a reasonable likelihood that such services will be provided for the entire period specified. In the case of FSS, the appropriate agency can be the Coordinating Committee. IHAs without FSS programs may rely on agencies associated with such programs as those found in Mutual Help;

(16) Evidence of a firm commitment of assistance from one or more sources ensuring that the supportive services will be provided for not less than one year following the completion of activities under the NOFA. Evidence shall be in the form of a letter or a resolution; and

(17) A description of a plan for continuing operation of the FIC and the provision of supportive services to families for at least one year following the completion of activities funded.

Authority: 42 U.S.C. 1437t and 3535(d).

Dated: June 30, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–17027 Filed 7–13–94; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–4333–02: GP4–214]

Emergency Closure of Public Lands; Oregon

July 5, 1994.

AGENCY: Bureau of Land Management, Interior, Prineville District.

ACTION: Notice is hereby given that effective immediately, all public lands as legally described below are closed to all motorized vehicle access and travel year-long.

In Deschutes County, Oregon:
Township 14 South, Range 13 East, Willamette Meridian
All public lands in Sections 1, 2 and 12
In Crook County, Oregon:
Township 14 South, Range 14 East, Willamette Meridian
All public lands in Sections 5, 6 and 7

The purpose of this closure is to protect against adverse impacts upon soils, vegetation, wildlife and wildlife habitat, scenic and non-motorized recreational resources. Exception to this closure is given to North Unit Irrigation District personnel or their agents for the continued maintenance of the North Unit Main Canal and to other administrative, permitted or emergency uses authorized by the Bureau of Land Management. The authority for this closure is 43 CFR 8341.2.

This closure will remain in effect until the area is re-evaluated, in accordance with 43 CFR 8342, through the resource management planning process and the adverse effects are eliminated and measures are implemented to prevent recurrence.

SUPPLEMENTARY INFORMATION: Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8340.0–7.

Dated: July 5, 1994.

Donald L. Smith,

Acting District Manager, Prineville District.

[FR Doc. 94–17118 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–33–M

[MT–921–04–4120–03–P; NDM 81582]

Coal Lease Offering

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Coal Lease Offering By Sealed Bid; NDM 81582—The Coteau Properties Company.

SUMMARY: Notice is hereby given that the coal resources in the lands described below in Mercer County, North Dakota, will be offered for competitive lease by sealed bid. This offering is being made as a result of an application filed by the Coteau Properties Company, in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181–287), as amended.

An Environmental Assessment of the proposed coal development and related requirements for consultation, public involvement and hearing have been completed in accordance with 43 CFR 3425. The results of these activities were a finding of no significant environmental impact.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value of the coal resource. The minimum bid for the tract is $100 per acre, or fraction thereof. No

bid that is less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

COAL OFFERED: The coal resource to be offered consists of all recoverable reserves in the following described lands located approximately 10 miles north of the town of Beulah:

Mercer County, North Dakota

T. 145 N., R. 86 W. 5th P.M.
Sec. 6: Lots 3, 4, 5, SE¼NW¼;
Sec. 8: E½NE¼, NW¼NW¼, SE¼NW¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 18: E½.
Containing 792.900 acres.

The Beulah bed, averaging 12.0 feet in thickness, is the only economically minable coal seam within the tract. The tract contains an estimated 9.1 million short tons of recoverable lignite. Coal quality, as received, averages 6831 BTU/lb., 37.78 percent moisture, 5.9 percent ash, 0.8 percent sulfur, 29.3 percent fixed carbon, and 27.0 percent volatile matter. This coal bed is being mined in adjoining tracts by the Coteau Properties Company.

RENTAL AND ROYALTY: A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of the coal mines by underground methods. The value of the coal shall be determined in accordance with 43 CFR 3485.2.

DATES: Lease Sale—The lease sale will be held at 11:00 a.m., Tuesday, August 9, 1994, in the Conference Room on the Sixth Floor of the Granite Tower Building, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107.

Bids—Sealed bids must be submitted on or before 10:00 a.m., Tuesday, August 9, 1994, to the cashier, Bureau of Land Management, Montana State Office, Second Floor, Granite Tower Building, 222 North 32nd Street, Post Office Box 36800, Billings, Montana 59107–6800. The bids should be sent by certified mail, return receipt requested, or be hand-delivered. The cashier will issue a receipt for each hand-delivered bid. Bids received after that time will not be considered.

SUPPLEMENTARY INFORMATION: Bidding instructions for the offered tract are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile documents are also available for public inspection at the Montana State Office.

Dated: July 7, 1994.

Thomas P. Lonnie,

Acting State Director.

[FR Doc. 94–17030 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–DN–P

[NV–050–4410–02]

Public Hearing Scheduled for the Supplement to the Draft Stateline RMP/EIS

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to 40 Code of Federal Regulations 1502.9(c), the Bureau of Land Management's (BLM) Las Vegas District is holding a public hearing to receive oral comments from the public on the Supplement to the Draft Stateline Resource Management Plan and Environmental Impact Statement (RMP/EIS) for the Stateline Planning Unit, Las Vegas District, Nevada.

DATES: The public hearing will be held on August 3, 1994.

ADDRESSES: The hearing will be held in Room 203–206, Cashman Field, 850 Las Vegas Boulevard North, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Jerry Wickstrom, RMP Team Leader, Bureau of Land Management, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, NV 89126; Telephone: (702) 647–5000.

SUPPLEMENTARY INFORMATION: Oral comments may be made at the public hearing beginning at 7 p.m. Individuals wishing to speak are to register before speaking and limit their remarks only to the information addressed in the Supplement to the Draft.

The Supplement to the Draft RMP/EIS contains a new alternative incorporating recommendations for ephemeral/perennial grazing, utility corridors, mineral management in Wilderness Study Areas not designated by Congress, and the U.S. Fish and Wildlife Service's Draft Tortoise Recovery Plan and Proposed Critical Habitat.

The Supplement to the Draft Stateline RMP/EIS was released for public review on May 20, 1994. The public comment period closes August 19, 1994.

Copies of the Supplement to the Draft RMP/EIS may be obtained from the Las Vegas District Office. All written comments on the Supplement to the Draft RMP/EIS must be submitted or postmarked no later than August 19, 1994. Written comments should be addressed to: Stateline Resource Area Manager, Attn. RMP Team Leader, Bureau of Land Management, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, NV 89126.

Dated: July 8, 1994.

Thomas V. Leshendok,

Acting State Director, Nevada.

[FR Doc. 94–17064 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–020–4333–04]

Wild Cow Springs Recreation Site; Supplementary Rules of Conduct, Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of supplementary rules of conduct for use and occupancy of the Wild Cow Springs Recreation Site.

SUMMARY: In addition to the regulations contained in 43 CFR 8365.2, the following supplementary rules will apply to the Wild Cow Springs Recreation Site:

a. No more than two vehicles per site will be allowed. Day use visitors are exempt from this rule.

b. No more than 36 vehicles will be allowed in the recreation site at any one time.

c. Quiet hours, in which the use of generators, loud radios, or boisterous behavior would be prohibited, are between 10 p.m. and 6 a.m.

d. Cutting live vegetation or standing dead vegetation is prohibited. Firewood gathering is restricted to dead and down wood only.

e. The recreation site may be closed to the public upon order from the authorized officer for human health and safety reasons.

EFFECTIVE DATE: August 1, 1994.

FOR FURTHER INFORMATION CONTACT: Rick Colvin, Nonrenewable Resources Supervisor, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona 86401, (602) 757–3161.

SUPPLEMENTARY INFORMATION: Wild Cow Springs Recreation Site is a developed camping facility designed for public use and enjoyment. The supplementary rules are designed to provide for public safety and welfare and to protect natural resources.

The authority for establishing supplementary rules is contained in CFR Title 43, Chapter II 8365.1–6. These rules will be available in the Kingman Resource Area Office and will be posted at the Wild Cow Springs Recreation Site. Violations of supplementary rules

are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: July 5, 1994.

David J. Miller,

Acting District Manager.

[FR Doc. 94–17121 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–32–M

[ID–942–04–406A–02]

Idaho: Filing of Plats of Survey

The plats of surveys of the following described land will be officially filed in the Idaho State Office, Bureau of land Management, Boise, Idaho, effective 9 a.m., on August 15, 1994.

The plat representing the dependent resurvey of a portion of the east boundary, Township 56 North, Range 2 West, and portions of the west boundary and subdivisional lines, and the subdivision of sections 6, 7, and 8, and the survey of Lot 1 in section 8 and Tracts 37 and 38, Township 56 North, Range 1 West, Boise Meridian, Idaho, Group No. 812, was accepted July 5, 1994.

The plat representing the dependent resurvey of a portion of the east boundary, Township 57 North, Range 2 West, and portions of the south and west boundaries, subdivisional lines, and 1896 meanders of Lake Pend Oreille, and the subdivision of sections 30 and 32, and survey of Tracts 37 and 38, Township 57 North, Range 1 West, Boise Meridian, Idaho, Group No. 812, was accepted July 5, 1994.

The plat representing the dependent survey of a portion of the subdivisional lines, and the subdivision of section 25, Township 57 North, Range 2 West, Boise Meridian, Idaho, Group 812, was accepted July 5, 1994.

These surveys were executed to meet certain administrative needs of the U.S.D.A. Forest Service.

All inquiries concerning the surveys of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: July 6, 1994.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 94–17123 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–GG–M

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for the Ouachita Rock-Pocketbook for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Ouachita rock-pocketbook (*Arkansia wheeleri*) which the Service listed as an endangered species on October 23, 1991 (56 FR 54957). Two extant populations are known to exist in the wild. A viable population of some 1,000 individuals inhabit the Kiamichi River in Oakland and a smaller population of some 100 individuals inhabit the lower Little River in Arkansas. The Little River population is believed too reduced and fragmented to ensure long-term viability. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before September 12, 1994, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, 222 South Houston, Suite A, Tulsa, Oklahoma 74127. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David Martinez, U.S. Fish and Wildlife Service Biologist, (918) 581–7458 or at the above address.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation and survival of the species, establish objective, measurable criteria for the recovery levels for downlisting or delisting species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The Ouachita rock-pocketbook (*Arkansia wheeleri*) is a monotypic genus now believed restricted to approximately 138 kilometers (85 miles) of the Red River system in eastern Oklahoma and western Arkansas. Stream impoundment, channelization, and water quality degradation are major threats to the species' continued survival. Impoundments change the physical and chemical characteristics of impounded stream reaches, producing conditions unsuitable for mussel species such as the Ouachita rock-pocketbook. The quality and regulation of releases from impoundments also modify water quality and physical characteristics in downstream waters, often for considerable distances. Such changes generally are detrimental to the native mussel community. Although suitable habitat may continued to exist farther downstream or upstream from impoundments, the populations in those habitats become isolated from each other as a result of the impoundments. Such isolation may prevent exchanges of genetic material that may be essential for long-term survival of the populations.

Channelization removes meanders and normal variations in width and depth of stream channels. It also removes riparian vegetation and modifies flow and sediment conditions in streams. These effects combine to eliminate naturally complex mussel habitats and communities that have become established over long periods of time. Degradation of water quality, whether from the preceding factors or from various sources, also affects mussels by increasing exposure to deleterious constituents and/or reducing availability of needed constituents in aquatic environments. Finally, freshwater mussels may be affected

indirectly by any factors affecting particular fish species that the mussels require as larval hosts. The recovery plan addresses Ouachita rock-pocketbook populations as units believed necessary for survival and recovery of the species.

The Ouachita rock-pocketbook recovery plan has been reviewed by the appropriate Service staff in Region 2. The plan will be finalized and approved following incorporation of comments and materials received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to the approval of the plan.

Authority: The Authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 16, 1994.

John G. Rogers,

Regional Director.

[FR Doc. 94–17044 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Final Environmental Impact Statement, General Management Plan, Development Concept Plan, Bent's Old Fort National Historic Site, CO

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of Final Environmental Impact Statement/General Management Plan/Development Concept Plan for Bent's Old Fort National Historic Site.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Final Environmental Impact Statement/General Management Plan/Development Concept Plan (FEIS/GMP/DCP) for Bent's Old Fort National Historic Site, Colorado.

DATES: A 30-day no-action period will follow the Environmental Protection Agency's notice of availability of the FEIS/GMP/DCP.

ADDRESSES: Public reading copies of the FEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Bent's Old Fort National Historic Site, Telephone: 719–384–2596

Division of Planning, Design and Construction, Rocky Mountain Regional Office, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80225, Telephone: (303) 969–2828

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843

SUPPLEMENTARY INFORMATION: In December 1993, the National Park Service released, for a 60-day public review, a Draft Environmental Impact Statement/General Management Plan/Development Concept Plan (DEIS/GMP/DCP) that evaluated three alternatives. The alternatives provided for the preservation of historic and natural resources while providing for visitor use. Under the no-action alternative, existing management activities would continue. Alternative One would expand the scope of the interpretive program, creating a self-service, self-interpretation oriented visitor experience. It would maintain the historic character of the site and improve overall operational and administrative working environments, while limiting physical development of small additions of space and renovation of existing spaces. The proposal would expand the scope of the interpretive program, create an interactive interpretive atmosphere through implementation of a visitor center, maintain the historic character of the site, and improve overall operational and administrative working environments by adding appropriate facilities.

The DEIS/GMP/DCP in particular evaluated the environmental consequences of the proposed action and the other alternatives on geology/soils, vegetation , prime and unique farmlands, wildlife, threatened and endangered species, water resources/quality, floodplains and wetlands, air quality, noise quality, cultural resources, visitor use, and socioeconomic resources/surrounding land uses. The environmental consequences of the proposed action and alternatives considered are fully disclosed in the DEIS/GMP/DCP. The Final Environmental Impact Statement/General Management Plan/Development Concept Plan states that the proposal, as described in the DEIS/GMP/DCP is the final plan. Also included are the results of the public involvement and consultation and coordination for this project.

FOR FURTHER INFORMATION: Contact Superintendent, Bent's Old Fort National Historic Site, at the above address and telephone number.

Dated: May 31, 1994.

W. Wayne Gardner,

Chief, Branch of Planning, Rocky Mountain Region, National Park Service.

[FR Doc. 94–17045 Filed 7–13–94; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–317 (Sub. 3X)]

Indiana Harbor Belt Railroad Co.—Discontinuance of Trackage Rights Exemption—In Gary, IN

Indiana Harbor Belt Railroad Company (IHB) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Trackage Rights* to discontinue its trackage rights [1] on approximately 3 miles of rail line owned by Consolidated Rail Corporation (Conrail), between Conrail mileposts 4.63 and 7.75, in Gary, IN, known as the Dune Park Line.[2]

IHB has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental), 49 CFR 1105.8 (historic requirement), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected

[1] The trackage rights were granted in an agreement between IHB and Conrail dated April 9, 1906.

[2] The status of the line *vis-a-vis* Conrail is unclear. At one point IHB indicates that Conrail has filed, or intends to file, a notice of exemption to abandon this trackage. Elsewhere, however, IHB states that Conrail has previously received authority to abandon the line, subject to IHB's trackage rights.

IHB states that it intends to discontinue trackage rights approximately August 1, 1994. However, 49 CFR 1152.50(d)(2) requires the filing of a notice of discontinuance at least 50 days before the abandonment or discontinuance is to be consummated. Because this notice was filed on June 20, 1994, applicant may not consummate the discontinuance prior to August 9, 1994. IHB's representative has confirmed that the correct consummation date is on or after August 9, 1994.

employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 13, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking statements under 49 CFR 1152.29[5] must be filed by July 25, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 3, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Roger A. Serpe, 175 West Jackson Boulevard, Suite 1460, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

IHB has filed an environmental report which addresses the effects of the discontinuance, if any, on the environment or historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 19, 1994. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248.

Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 7, 1994.

[3] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[4] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[5] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–17140 Filed 7–13–94; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–39 (Sub-No. 17X)]

St. Louis Southwestern Railway Co.—Abandonment Exemption—in Hunt and Collin Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by St. Louis Southwestern Railway Company of a 23.2-mile segment of its line of railroad known as the Commerce Branch, in Hunt and Collin Counties, TX, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 13, 1994. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)[1] must be filed by July 22, 1994. Petitions to stay must be filed by July 29, 1994. Requests for a public use condition must be filed by August 3, 1994. Petitions to reopen must be filed by August 8, 1994.

ADDRESSES: Send pleadings, referring to Docket No. AB–39 (Sub-No. 17X), to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and (2) Petitioner's Representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: July 5, 1994.

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–17141 Filed 7–13–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment, Combustion Engineering, Inc.

Notice is hereby given that Combustion Engineering, Inc. ("CE"), has filed with the United States District Court for the Southern District of New York, a motion to terminate the Final Judgment in *United States* versus *Combustion Engineering, Inc.,* Civil No. 126–230; and the Department of Justice ("Department"), in a Stipulation also filed with the Court, has tentatively consented to termination of the Judgment, reserving the right to withdraw its consent based on public comments and for other reasons.

The Complaint in this case, filed on November 1, 1957, alleged that Combustion Engineering entered into market allocation and exclusive dealing arrangements with twelve foreign companies that manufactured steam generating and fuel burning equipment ("Equipment"). The Final Judgment, among other things, enjoined CE from enforcing provisions in then existing patent and technology license agreements with foreign manufacturers of Equipment that involved territorial market allocation, cross-licensing and exclusive dealing. The judgment also prohibits future agreements with foreign Equipment manufacturers to allocate territories, restrict imports or exports, tie products or services to individual purchases, deal exclusively or cross-license.

The Department has filed with the Court a memorandum setting forth the reasons the Department believes that termination of the Judgment would serve the public interest. Copies of the Complaint, Final Judgment, the United States' memorandum, CE's Motion papers, and all further papers filed with the Court in connection with this Motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone: 202–514–2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York,

United States Courthouse, Foley Square, New York, New York 10007. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Judgment to the Department. Such comments must be received within the sixty (60) day period established by Court order, and will be filed with the Court by the Department. Comments should be addressed to J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, Department of Justice, 1401 H Street, NW., City Center Building, Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–17115 Filed 7–13–94; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Notice of Submission of Proposed Information Collections to OMB

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed information collection submitted to OMB for approval.

SUMMARY: The National Archives and Records Administration (NARA) is giving notice that the proposed collection of information displayed in this notice has been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act and 5 CFR part 1320. Public comment is invited on this collection.

DATES: Comments should be submitted by July 29, 1994.

ADDRESSES: Written comments should be sent to Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard at (301) 713–6730 or Linda Brown at (202) 501–5200.

The proposed information collection illustrated at the end of this notice has been submitted to OMB.

Description: The information collection is a voluntary questionnaire for users and potential users of the National Archives. The respondents have been selected from a group of representatives of the major categories of users as identified by the Nebraska Advisory Committee.

Purpose: The information will be used for a pilot project in Nebraska to determine what information and records may be appropriate for electronic access.

Frequency of response: One time.
Number of respondents: 300.
Reporting hours per response: .33.
Annual reporting burden hours: 100.

Dated: July 8, 1984.

Raymond A. Mosley,

Acting Archivist of the United States.

Electronic Access Study Questionnaire

The National Archives and Records Administration (NARA) has information, records, and related materials from and about the Federal Government. NARA's mission is to give citizens the Federal information they want in the most accessible manner possible so that citizens can protect their individual legal rights, monitor their government, and make informed decisions about national priorities.

Answers to the following questions will help the National Archives prioritize its work as it strives to respond to the informational needs of the people of the U.S. Please check the items that are important to you (or to your clients if you are an information provider). You may check more than one item for each question.

1. What place(s) would be convenient for you to electronically search for or receive National Archives information?

____ public library
____ office
____ school
____ home
____ community center
____ other: _____

2. How do you search for information?

____ personal names or titles
____ subjects/events
____ names of Federal Agencies
____ other: _____
____ place names/geographic areas
____ time frame
____ names of organizations

3. What kind(s) of information services from the National Archives would be most useful to you if available electronically? Indicate priority by marking each item as "H" (High), "M" (Medium), or "L" (Low).

____ Getting started/How to locate information or records and services available through NARA.
____ Public calendar of events.
____ Information about NARA facilities (overview of holdings, hours, location, etc.).
____ Information about records and related materials held by NARA.
____ Copies of actual documents held by NARA.
____ NARA sponsored workshops or training.
____ On-line ordering of records or publications.
____ Information about other Federal Agencies.
____ Information about records created or held by other Federal Agencies.

4. The National Archives has records and related materials documenting the legislative, judicial, and executive branches of the Federal government. Which of the following would be most useful to you? (Check as many as apply.)

Historic Information

Information related to:
____ The Presidency
____ Congress
____ Federal regulations and laws, including the **Federal Register**.
____ Federal Courts

Agency Records:
____ Agriculture
____ Commerce
____ Defense
____ Education/Culture

Current Information

Information related to:
____ The Presidency
____ Congress
____ Federal regulations and laws, including the **Federal Register**.
____ Federal Courts

Agency Records:
____ Agriculture
____ Commerce
____ Defense
____ Education/Culture
____ Energy
____ Health & Human Services
____ Housing & Urban Services
____ Justice/Law Enforcement
____ Labor
____ Maritime
____ Postal Service
____ Public Lands, Parks, & Environment
____ Science & Technology
____ State/Foreign Relations
____ Transportation
____ Treasury/Revenue/Finance

Records of Individuals:
____ Genealogy
____ Military Service Records
____ Ethnic Heritage:
____ Native American
____ Other: _____

____ Energy
____ Health & Human Services
____ Housing & Urban Services
____ Justice/Law Enforcement
____ Labor
____ Maritime
____ Postal Service
____ Public Lands, Parks, & Environment
____ Science & Technology
____ State/Foreign Relations
____ Transportation
____ Treasury/Revenue/Finance

Records of Individuals:

____ Genealogy
____ Military Service Records
____ Ethnic Heritage:
____ Native American
____ Other: _____

5. Please check up to 3 types of records or documents you would like to have available for on-line computer access.

____ written (textual) documents
____ motion pictures/video
____ architectural drawings
____ data sets
____ other: _____
____ photographs
____ maps
____ audio/sound recordings
____ images of museum objects

6. For whom do you usually search for information?

____ Yourself
____ Others

7. For what purpose(s) might you or your customers need information from the National Archives? (Check as many as apply.)

____ to supplement teaching materials (teacher's perspective)
____ elementary
____ undergraduate
____ middle school
____ graduate
____ secondary
____ adult education
____ for school assignments (student's perspective)
____ elementary
____ undergraduate
____ middle school
____ graduate
____ secondary
____ adult education
____ for publishing books, papers, or articles
____ for legal research
____ to search for current grants and funding sources
____ for regulatory research
____ for investment or business opportunities
____ to support an application for personal benefits or claims
____ veteran
____ other: _____
____ for genealogical research
____ for local and community history research
____ for media use, such as
____ radio
____ newspaper
____ magazine
____ TV
____ other:
____ personal interest or enrichment, for example: _____
____ other: _____

8. In what format(s) would you want information or copies of records from the National Archives?

____ photocopies
____ printed publications
____ other: _____
____ photographs
____ CD–ROM
____ microforms
____ on-line

9. How would you like this information or copies of records delivered to you?

_____ FAX
_____ COD
_____ Other: _____
_____ Computer (on-line)
_____ Overnight or second day express delivery
_____ First class mail

10. What technologies are you currently using? Please check all that you use.

_____ None
_____ FAX
_____ Computer as a word processor
_____ Computer with a modem
_____ Macintosh
_____ PC without Windows
_____ PC with Windows
_____ PC with Windows and with a sound card
_____ Other: _____

11. Do you use the following? Please check all that you use.

_____ E-mail
_____ on-line searching
_____ electronic bulletin board(s)
_____ Internet
_____ commercial on-line services
_____ other: _____

12. Have you ever visited a National Archives facility?

_____ yes
_____ no

13. Have you ever called or written to a National Archives facility for information?

_____ yes
_____ no

14. Have you attended any of the Electronic Access Study discussion group sessions that were held in Nebraska in June and July (1994) with National Archives staff?

_____ yes
_____ no

Please return the questionnaire within two weeks to Judi Moline, NIST, Building 225 Room B266, Gaithersburg, MD 20899, or by FAX to 301–926–3696. There is a stamped, self-addressed, envelope enclosed for your convenience.

Public Burden Statement

Public burden reporting for this collection of information is estimated to be 20 minutes per response. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden to the National Archives and Records Administration (NAAD), 8601 Adelphi Road, College Park, MD 20740–6001, and to the Office of Management and Budget, Paperwork Reduction Project (3095–), Washington, DC 20503. Do not send completed forms to these addresses. Send forms to Judi Moline at the address given in the previous paragraph.

[FR Doc. 94–17145 Filed 7–13–94; 8:45 am]
BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

Nebraska Public Power District; Cooper Nuclear Station Environmental Assessment and Finding of No Significant Impact

[Docket No. 50–298]

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption to Facility Operating License No. DPR–46 to the Nebraska Public Power District (the licensee), for the operation of the Cooper Nuclear Station (CNS), located in Nemaha County, Nebraska.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements of Section III.C.1 of Appendix J to 10 CFR Part 50, to allow Type C testing (local leak rate testing) of four containment isolation valves in the reverse direction.

The proposed action is in accordance with the licensee's application for exemption dated June 29, 1994.

The Need for the Proposed Action

The purpose of Type C testing is to measure the leakage through the

primary reactor containment and thereby provide assurance that it does not exceed the maximum allowable leakage rates. Prior to a recent contractor review of local leakrate testing methodology, the licensee had made the determination that reverse direction testing of the subject containment isolation valves produced equivalent or more conservative results than testing in the accident direction. The contractor review disclosed that, while reverse pressure testing for the subject valves (two globe valves and two stop-check globe valves) was conservative with respect to measuring leakage past the valve seating surfaces, such testing may be non-conservative with respect to packing leakage and body-to-bonnet leakage. Packing and body-to-bonnet leakage cannot be quantified by reverse pressure testing because the physical configurations of the valves are such that valve packing and the valve bonnets are not exposed to test pressure. The four valves are not testable in the accident direction due to the inability to isolate the valves from containment and the lack of test connections.

Several factors are cited by the licensee in its June 29, 1994, request for exemption to demonstrate that a high level of confidence exists that reverse direction pressure testing does not yield significantly different results than what would be expected in the accident direction. First, reverse pressure testing of globe valves generally results in a conservative seat leakage measurement because the pressurization test applies force in the direction that would unseat the disk. Any increase in leakage attributable to this factor would tend to offset the inability to measure packing and body-to-bonnet leakage on the non-testable side of the valve. Second, all subject valves are tested in the accident direction during integrated leakrate tests, thus exposing all pressure retaining parts, including the bonnet and packing, to the design basis pressure (58 psig).

Third, integrated leakrate test results historically have not indicated any significant leakage through these two paths. As of June 22, 1994, total minimum path as-left leakage for all type B and C tests measured 117.95 standard cubic feet per hour. The 1991 integrated leakrate test yielded a total measured leakrate of 102.5 standard cubic feet per hour. These results demonstrate that significant margin exists with respect to the startup limit of 189 standard cubic feet per hour and the total allowable limit of 316 standard cubic feet per hour. Thus, there is confidence that the requirements of 10 CFR part 50, appendix J, and the Cooper Nuclear Station Technical Specifications continue to be met.

Fourth, valve packing and body-to-bonnet gaskets do not contain materials that degrade as a result of the mild service conditions to which they are subjected during normal operations and periodic surveillance testing.

Finally, while the above factors may provide reasonable assurance that leakage through the bonnet and the packing is not a problem for the four subject valves, the licensee has proposed additional actions in order to justify permanent exemptions from the "equivalent or more conservative" results requirement of 10 CFR Part 50, Appendix J. Specifically the licensee proposes to perform soap bubble tests to detect body-to-bonnet or packing leakage while these pressure retaining boundaries are pressurized in the accident direction during future integrated leakrate tests. A "zero bubble" or zero detectable leakage acceptance criteria would be satisfied to demonstrate the leak-tightness of the packing and valve bonnets. Additionally, the licensee proposes to specifically observe the two stop-check globe valves for indication of leakage through the insulation during scheduled system surveillance tests which subject the valves to pressurization.

Without the proposed exemption, the licensee would be forced, at significant cost but without any significant increase in public health and safety, to implement plant modifications to permit local leakrate testing with test pressure applied in the accident direction. Further, such actions would delay the restart date of the current outage, which is currently scheduled for July 11, 1994.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed exemption would allow permanent individual exemptions from Appendix J to 10 CFR Part 50 to allow Type C testing of four isolation valves in the reverse direction.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed action, any alternatives to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. Denial would not reduce the environmental impacts attributed to the facility but would result in the expenditure of resources and increase radiation exposures without any compensating benefit.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Cooper Nuclear Station, dated February 1973.

Agencies and Persons Consulted

The NRC staff consulted with the Nebraska State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for exemption dated June 29, 1994, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 8th day of July 1994.

For the Nuclear Regulatory Commission.

William D. Beckner,

Director, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–17077 Filed 7–13–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–335]

Florida Power & Light Co.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power and Light Company (the licensee) to withdraw its October 21, 1992 application for proposed amendment to Facility Operating License No. DPR–67 for St. Lucie Unit 1, located in St. Lucie County, Florida.

The proposed amendment would have revised Technical Specification 3.3.1.1, Reactor Protective Instrumentation, to modify the action statement requirements for the High Rate of Change in Power trip.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 25, 1992 (57 FR 55581). However, by letter dated June 21, 1994, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated October 21, 1992, and the licensee's letter dated June 21, 1994, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954–9003.

Dated at Rockville, Maryland this 6th day of July, 1994.

For the Nuclear Regulatory Commission.

Jan A. Norris, Sr.,

Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–17076 Filed 7–13–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Further to the June 9, 1994, Notice Regarding Standards for the Classification of Federal Data on Race and Ethnicity

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Information and Regulatory Affairs

ACTION: Announcement of an Additional Public Hearing on Directive No. 15., Race and Ethnic Standards for Federal Statistics and Administrative Reporting

SUMMARY: Through Congressional hearings and direct correspondence, OMB has received numerous comments concerning the classification of Native Hawaiians. One of the suggested changes would involve establishing a separate category for Native Hawaiians. Alternatively, it has been proposed that Native Hawaiians should be part of a "Native American" category that would also include American Indians, Aleuts, and Eskimos. Currently, Native Hawaiians are included in the Asian and Pacific Islander category. To facilitate the participation of the Native Hawaiian community in the current review of the racial and ethnic categories, a public hearing will be held in Honolulu.

PUBLIC HEARING: To provide an additional opportunity to hear views from the public, particularly with respect to the classification of race and ethnicity for Native Hawaiians, and more generally on Directive No. 15, OMB has scheduled the following hearing:

Date/Time	Location
July 18, 1994 4:00 p.m.	The Kamehameha Schools Auditorium Kapalama Heights Honolulu, Hawaii

If you wish to present an oral statement at this hearing, please contact Mike Kitamura, Office of Senator Daniel K. Akaka, telephone 808–522–8970, by Friday, July 15, 1994, and provide your name, address, telephone and fax numbers, and the name of the organization you represent.

Persons testifying are asked to bring three (3) copies of their statement to the hearing. Written statements will also be accepted at the hearing. Depending on the number of persons who request to present their views, the hearing may be extended to the following day.

ADDRESSES: Requests to be placed on the hearing schedule should be directed to Mike Kitamura, Office of Senator Daniel K. Akaka, P.O. Box 50144, Honolulu, Hawaii; telephone 808–522–8970; Fax 808–545–4683.

WRITTEN COMMENTS: Written comments may be addressed to Katherine K. Wallman, Chief, Statistical Policy, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Room 10201 New Executive Office Building, Washington, D.C. 20503.

DATES: To ensure consideration, written comments must be provided to OMB on or before September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Suzann Evinger, Statistical Policy Office, Office of Information and Regulatory Affairs, Office of Management and Budget, Telephone: (202) 395–3093.

SUPPLEMENTARY INFORMATION:

Background

More detailed information about the review and possible revision of OMB's Statistical Policy Directive No. 15 can be found in the Federal Register, Volume 59, No. 110, June 9, 1994, pp. 29831–29835.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs

[FRDoc. 94–17122 Filed 7–13–94; 8:45 am]

BILLING CODE 3110– 01–F

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34329; File No. SR–CBOE–94–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Equity and SPX RAES Participation Requirements

July 7, 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 January 22, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to impose fees on market makers who fail to observe certain participation duties on the Retail Automated Execution System ("RAES") for equity and Standard & Poor's 500 Index ("SPX") classes of options. Specifically, the CBOE proposes to amend CBOE Rules 8.16, "RAES Eligibility in Equity Options" and 24.16, "RAES Eligibility in SPX/NDX," to impose the following fees for failures to satisfy the rules' log-off requirements: (1) A fee of $100.00 for one to three failures within one twelve-month period; (2) a fee of $250.00 for four to six failures within one twelve-month period; and (3) a fee of $500.00

for seven or more failures within one twelve-month period. In addition, the CBOE proposes to issue a Regulatory Circular clarifying market makers' RAES responsibilities with respect to equity and SPX options classes and indicating that members who fail to meet the log-on requirements of CBOE Rules 8.16(b) or 24.16(b) ordinarily will be suspended from participation on RAES at the applicable trading station for a period of 21 consecutive business days.[1]

The text of the proposal 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the placed specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The CBOE states that the purpose of the proposed rule change is to impose fees on members who fail to observe the RAES log-off requirements set forth in CBOE Rules 8.16(a) and 24.16(a) relative to equity options and SPX index options. The CBOE proposes to incorporate the following fee schedule into CBOE Rules 8.16(a) (for equity options) and 24.16(a) (for SPX options) for failures to comply with the log-off requirements: (1) A fee of $100.00 for one to three failures within one twelve-month period; (2) a fee of $250.00 for four to six failures within one twelve-month period; and (3) a fee of $500.00 for seven or more failures within one twelve-month period.

The proposed fees for failures to observe the log-off requirements for equity and SPX RAES are identical in amounts and graduated structure to the fees proposed for Standard & Poor's 100 Index ("OEX") options in File No. SR-CBOE-94-12. Under both proposals, the fee amounts will increase in relation to the number of times each calendar year that a member does not log off as required.

As is the case for fees applicable to OEX RAES participants under existing CBOE Rule 24.17, "RAES Eligibility in "OEX," the proposed fees do not constitute disciplinary action, although the CBOE's review procedures in Chapter XIX, "Hearings and Review," of the CBOE's rules will be available for review of fees assessed under the proposal. The Commission has noted the appropriateness of such fees and appeal rights in a related context.[2]

In addition to establishing a fee schedule, the CBOE proposes to issue a Regulatory Circular that will reaffirm the nature of CBOE market makers' RAES log-on and log-off responsibilities in respect of equity and SPX options classes and will describe the consequences that attach to any market maker's failure to observe these responsibilities. The Regulatory Circular addresses four points. First, CBOE Rules 8.16(a)(iii) and 24.16(a)(iii) require any market maker who has logged onto RAES at a trading station on any given trading day to log off RAES whenever the market maker leaves the trading crowd for more than "a brief interval." The Regulatory Circular interprets "a brief interval" to mean "five consecutive minutes." Under this interpretation any market maker who signs onto RAES at a particular trading station during a trading session must log off the system prior to leaving that station for more than five consecutive minutes. The CBOE believes that this interpretation should eliminate ambiguity about the amount of time a market maker may be away from the trading crowd without signing off RAES.

Second, the Regulatory Circular notes that graduated fees will be assessed under CBOE Rules 8.16(a) and 24.16(a) for failure to observe the RAES log-off requirement.

Third, the Regulatory Circular reflects the MPC's designation pursuant to CBOE Rules 8.16(b) and 24.16(b) that the expiration month log-on requirements reflected in those rules will be enforced in all classes of equity and SPX options for which RAES is available. Accordingly, any market maker who has logged onto RAES in accordance with CBOE Rules 8.16(a) or 24.16(a) during an expiration month for a given class of options must log on whenever present at the applicable trading station, until expiration.

Fourth, the Regulatory Circular reflects a determination by the MPC, pursuant to its authority under CBOE Rules 8.16(d) and 24.16(d), that any market maker who fails to meet the log-on requirements under CBOE Rules 8.16(b) or 24.16(b) ordinarily will be suspended from participation on RAES at the applicable trading station for a period of 21 consecutive business days.[3]

The CBOE 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)(5), in particular, in that it is designed to enable the CBOE to enforce compliance with the Act, to promote just and equitable principles of trade, and to protect investors and the public interest by assuring that equity and SPX options market makers are aware of and meet their responsibilities pertaining to RAES.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to

[1] CBOE Rules 8.16(b) states that in option classes designated by the Market Performance Committee ("MPC"), any market maker who has logged on RAES at any time during an expiration month must log on the RAES system in that option class whenever he is present in that trading crowd until the next expiration. CBOE Rule 24.(b) states that unless exempted by the MPC, any market maker who has logged on RAES at any time during an expiration month must log on the RAES system in SPX/NSX whenever he is present in that trading crowd until the expiration.

[2] Specifically, in approving a CBOE proposal that included procedures for contesting the fees assessed for delayed submission of trade data, the Commission stated that "Although such formalized procedures are unusual for challenging fee assessments, they actually make the imposition of the fee fairer by allowing members to challenge erroneous fee charges. Moreover, these procedures are reasonably designed to afford a member assessed a fee the opportunity to challenge the veracity of the assessments." See Securities Exchange Act Release No. 30001 (November 26, 1991), 56 FR 63529 (order approving File No. SR-CBOE-90-06).

[3] In contrast to this suspension provision, File No SR-CBOE-94-12 proposes that members who fail to observe the RAES log-on requirements for OEX options would be subject to a fee. The CBOE has determined that suspensions, not fees, are the appropriate mechanisms to promote compliance with RAES log-on requirements for equity and SPX options. The CBOE states that it may introduce fees for failures to observe the log-on requirements for equity and SPX options at a later date if experience so dictates.

90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 4, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[FR Doc. 94–17032 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34327; File No. SR–NYSE–93–38]

Self-Regulatory Organizations; New York stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change Relating to Additions of Certain Exchange Rules to the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" and Amendment Minor Rule Violation Enforcement and Reporting Plan

July 7, 1994.

On October 21, 1993 the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the Rule 476A Violations List ("List") for imposition of fines for minor violations of rules and/or policies by adding to the List Exchange Rules 304(h)(2), 345.12, 346 (b) and (e), 346(f), 352 (b) and (c), 440C and 472(c). The NYSE also requested approval, under Rule 19d–1(c)(2), to amend its Rule 19d–1 Minor Rule Violation Enforcement and Reporting Plan ("MRVP") to include the Rules enumerated above.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 33779 (March 17, 1994), 59 FR 14231 (March 25, 1994). No comments were received on the proposal.

Description and Background

In 1984, the Commission adopted amendments to paragraph (c) of Securities Exchange Act Rule 19d–1 to allow SROs to submit, for Commission approval, plans for the abbreviated reporting of minor rule violations.[4] Subsequently, in 1985, the Commission approved an NYSE plan for the abbreviated reporting of minor rule violations pursuant to Rule 19d–1(c) under the Act. The MRVP relieves the NYSE of the current reporting requirements imposed under Section 19(d)(1) of the Act for violations listed in NYSE Rule 476A. The NYSE MRVP, as embodied in NYSE Rule 476A, provides that the Exchange may designate violations of certain rules as minor rule violations. The Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a violation of the delineated rules by issuing a citation with a specific penalty.[5] Such person can either accept the penalty, or opt for a full disciplinary hearing on the matter. Fines assessed pursuant to NYSE Rule 476A in excess of $2,500 are not considered pursuant to the MRVP and must be reported in a manner consistent with the current reporting requirement of Section 19(d)(1) of the Act. The Exchange also retains the option of bringing violations of rules included under NYSE Rule 476A to full disciplinary proceedings, and the Commission expects the Exchange to do so for egregious or repeat violations.

In adopting Rule 19d–1, the Commission noted that the Rule was an attempt to balance the informational needs of the Commission against the reporting burdens of the SROs.[6] In promulgating paragraph (c) of the Rule, the Commission was attempting further to reduce those reporting burdens by permitting, where immediate reporting was unnecessary, quarterly reporting of minor rule violations. The Rule is intended to be limited to rules which can be adjudicated quickly and objectively.

The NYSE currently is adding Exchange Rules 304(h)(2), 345.12, 346 (b) and (e), 346(f), 352 (b) and (c), 440C and 472(c), which generally include reporting, required approvals, record retention and conduct of accounts, for which determinations of violations can be made objectively.

Discussion

Specifically, Rule 304(h)(2) requires that any applicant, applying to the Exchange for consideration as an approved person, supply the Exchange with information regarding any statutory disqualification to which said applicant (or anyone associated therewith) may be subject. The Commission believes that since this is strictly a notification provision, determining compliance therewith is objective.

Rule 345.12 requires applications (Form U–4) for all natural persons required to be registered with the Exchange to be filed upon the candidate's employment and to be kept current. The Commission believes that

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[4] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Diana Luka-Hopson, Branch Chief, Commission, dated October 20, 1993.

[4] See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Pursuant to paragraph (c)(1) of Rule 19d–1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2) of Rule 19d–1, any disciplinary action taken by an SRO for a violation of an SRO rule that has been designated a minor rule violation pursuant to the Plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated minor violations as not final, the Commission permits the SRO to report violations on a periodic, as opposed to immediate, basis.

[5] The List is contained under Supplementary Material to Exchange Rule 476A. As discussed in note 4 *supra*, only those fines imposed that are not in excess of $2,500 are subject to periodic reporting. Fines imposed pursuant to Rule 476A in excess of $2,500 are deemed final and therefore are subject to immediate reporting to the Commission.

[6] See Securities Exchange Act Release No. 13762 (July 8, 1977), 42 FR 35411 (July 14, 1977).

as an administrative and record-keeping provision, determining compliance is objective.

Rules 346 (b) and (e) generally place limitations upon members, allied members, and their employees with respect to outside employment and association.[7] The Commission believes that the large category of possible minor infractions of these rules and the relative objectivity in assessing possible infractions justify their inclusion in the List and MRVP.

Rule 346(f) prohibits any member, member organization, allied member, approved person or employee of any person in a control relationship with a member or member organization from associating with any person subject to a statutory disqualification as defined in the Act. For the purposes of this Rule, the term associated with a member or member organization has the same meaning as the term "associated with a member" as defined in section 3(a)(21) of the Act.[8] The Commission believes that violations of this Rule are relatively objective and that adding this Rule to the List and MRVP will provide additional deterrence for this type of association, and thus is consistent with the Act.

Rules 352 (b) and (c) generally prohibit any member, member organization, allied member, registered representative or officer from guaranteeing any customer against loss in any account and from sharing in profits or losses in a customer's account. The Commission believes that although there can be serious infractions of these Rules, there are a sufficient number of unexceptional situations that have arisen that warrant adding the Rules to the List and MRVP. The Commission reemphasizes that the NYSE is only to treat minor violations of the rules included in the List and MRVP under Rule 476A and all serious violations should continue to be disciplined in accordance with NYSE Rule 476 ("Disciplinary Proceedings Involving Charges Against Members, Member Organizations, Allied Members, Approved Persons, Employees, or Others").

Rule 440C prohibits a member or member organization from failing to deliver against a short-sale until diligent effort is made to borrow securities necessary to make delivery. The Commission notes that activity constituting "diligent effort" in the context of this Rule is explicitly outlined in an NYSE Information Memo circulated to its members in October of 1991.[9] Because the NYSE has placed its members on notice as to what conduct is violative of Rule 440C, we expect that determination of compliance will be straightforward and objective. We therefore believe that it is consistent with the Act to add Rule 440C to the List and MRVP.

Finally, Rule 472(c) requires that members and member organizations retain communications with customers or the public for at least three years.[10] The Commission believes that because this is a record retention rule, discerning compliance is objective and it is appropriate to discipline under the MRVP for minor violations of this Rule.

Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) (1), (6) and, (7), 6(d)(1) and 19(d) of the Act.[11] The proposal is consistent with the Section 6(b)(6) requirement that the rules of an exchange provide that its members and persons associated with its members shall be appropriately disciplined for violations of rules of the exchange. In this regard, the proposal provides an efficient procedure for appropriate disciplining of members for rule violations that generally encompass reporting, required approvals, record retention and conduct of accounts requirements and are objective in nature. Moreover, because NYSE Rule 476A provides procedural rights to the person fined and permits a disciplined person to request a full hearing on the matter, the proposal provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.

The Commission also believes that the proposal provides an alternate means by which to deter violations of the NYSE rules included in the MRVP, thus furthering the purposes of Section 6(b)(1) of the Act. An exchange's ability to effectively enforce compliance by its members and member organizations with Commission and Exchange rules is central to its self-regulatory functions. Inclusion of a rule in an exchange's minor rule violation plan should not be interpreted to mean it is an unimportant rule. On the contrary, the Commission recognizes that inclusion of rules under a minor rule violation plan may not only reduce reporting burdens on an SRO but also may make its disciplinary system more efficient in prosecuting violations of these rules.

In addition, because the NYSE retains the discretion to bring a full disciplinary proceeding for any violation included on the List, the Commission believes that adding the NYSE Rules outlined above will enhance, rather than reduce, the NYSE's enforcement capabilities of these Exchange requirements. In this regard, the Commission expects the Exchange to bring full disciplinary proceedings if it determines that a violation otherwise covered by the MRVP is not minor in nature, in the event of repeat violations of a particular rule, or in any other appropriate circumstance. Finally, the Commission believes that the inclusion of the subject Rules will prove to be an effective alternate response to a violation when the initiation of a full disciplinary proceeding is unsuitable because such a proceeding may be more costly and time-consuming in view of the minor nature of the particular violation. By including the Rules in the Rule 476A Minor Rule Violation List, the NYSE can quickly respond to violations, thereby immediately deterring similar infractions.

It Is Therefore Ordered, pursuant to Section 19(b)(2) and Rule 19d–1(c)(2) under the Act,[12] that the proposed rule change (SR–NYSE–93–38) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17031 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[7] Rule 346(b) requires members, allied members and employees of member organizations to receive prior written consent of their employer to engage in any other business activity or to be employed or compensated by any other person. Rule 346(e) provides that persons delegated supervisory responsibilities must devote their full time to the business of the member organization during business hours, unless otherwise permitted by the Exchange (Rule 346.10).

[8] 15 U.S.C. 78c(a)(21). Under the Act, the term means any partner, officer, director, or branch manager of such member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such member, or any employee of such member.

[9] See NYSE Information Memo Number 91–41 to all members and member organizations, dated October 18, 1991.

[10] The communications must also contain the name of the person who prepared the material, the name of the person approving its issuance, and be readily available to the Exchange upon request.

[11] 15 U.S.C. 78f(b) (1), (6) and (7), 78f(d)(1) and 78s(d) (1988).

[12] 15 U.S.C. 78s(b)(2) (1988) and 17 CFR 240.19d–1(c)(2) (1991).

[13] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–34322; File No. SR–PSE–93–31]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Amendments to its Minor Rule Plan

July 6, 1994.

I. Introduction

On November 30, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission") a proposed rule change which amends its Minor Rule Plan ("MRP")[3] by adding certain violations to the list of those subject to the expedited disciplinary procedures set forth in PSE Rule 10.13, and by amending the recommended fine schedule ("Recommended Fine Schedule") for MRP violations. On March 30, 1994, the Exchange filed Amendment No. 1 to the proposed rule change.[4]

Notice of the Exchange's proposed rule change and Amendment No. 1 appeared in the **Federal Register** on May 2, 1994.[5] No comment letters were received on the proposal. This order approves the proposal and Amendment No. 1 thereto.

II. Description of the Proposal

1. The Exchange's MRP

PSE Rule 10.13(a) authorizes the PSE's Executive Committee, Ethics and Business Conduct Committee, Options Floor Trading Committee, and Equity Floor Trading Committee to impose a fine not to exceed $5,000 on any member, member organization, or person associated with a member or member organization for any violation of an Exchange rule that has been deemed to be minor in nature and approved by the Commission for inclusion in the MRP. The purpose of Rule 10.13 is to provide for a response to a rule violation when a meaningful sanction is appropriate but when initiation of a disciplinary proceeding under PSE Rule 10.3[6] is not suitable because such a proceeding would be more costly and time-consuming than would be warranted given the minor nature of the violation. Rule 10.13 provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.[7] Rule 10.13 includes a list of rule violations that are eligible for the expedited disciplinary procedure under the MRP and that may be the subject of fines in accordance with the Recommended Fine Schedule. In order for a particular Exchange rule violation to qualify for inclusion in the MRP, the rule violation must be either objective or technical in nature, and be easily verifiable, thereby lending itself to the use of expedited proceedings.

2. Proposed Additions to List of MRP Violations

The Exchange is proposing to amend its MRP by adding the following violations of Exchange rules and policies to the MRP: (1) Members who act as Floor Brokers and Market Makers trading in excess of 100 contracts per month as a Market Maker without a Primary Appointment (PSE Rule 6.38(c)); (2) Failure to request a market to be removed from the screen when leaving the trading crowd (PSE Rule 6.37, Com. .03; PSE Rule 6.46, Com. .04); (3) Failure to meet 75% Primary Appointment requirement (PSE Rule 6.35, Com. .03); (4) Failure to meet 60% in-person trading requirement (PSE Rule 6.37, Com. .07); (5) Unauthorized use of telephones located in the options trading post areas; (6) Short Sale rules (PSE Rule 5.18(a)–(f)); (7) Inadequate staffing at specialist post (prior to the opening) (PSE Rule 5.28(c)–(d)); (8) Failure to furnish in a timely manner books, records, or other requested information or testimony in connection with an examination of financial responsibility and/or operational conditions (PSE Rule 2.12(c)); and (9) Failure to notify the Exchange of a change of address where notices may be served (PSE Rule 1.13).

3. Proposed Amendments to Recommend Fine Schedule

The Recommended Fine Schedule is graudated so that the sanctions imposed for particular Exchange rule violations increase with each subsequent violation. The Exchange proposes to establish recommended fines for first, second, and third-time violations of the rules proposed to be added to the MRP.[8] The Exchange also is proposing that Options and Equity Floor Decorum and Minor Trading Rule Violations be calculated on a running two-year basis, so that a subsequent violation of the same provision within two years will be subject to the next highest fine (*e.g.*, the second violation that occurs within a two-year period will be treated as a second occurrence). However, the Exchange proposes that violations of particular Equity Floor Decorum and Minor Trading Rules be considered on a running one-year basis consistent with existing provisions to that effect in the Equity Floor Procedure Advices ("EFPA").[9]

The Exchange represents that the amended Recommended Fine Schedule will be disseminated to the Exchange membership via a regulatory bulletin, and recirculated periodically (*i.e.*, approximately once per year).

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5) and

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1993).

[3] Rule 19d–1(c)(2) under the Act, 17 CFR 240.19d–1(c)(2), authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member organizations. The Exchange's MRP initially was approved by the Commission in 1985. *See* Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853 (November 27, 1985). On June 24, 1993, the Commission approved a number of amendments to the Exchange's MRP, including the addition of certain rules to the list of MRP violations, the addition of detailed procedures to the MRP, and revisions to the Exchange's Recommended Fine Schedule. See Securities Exchange Act Release No. 32510 (June 24, 1993), 58 FR 35491 (July 1, 1993) ("Release 34–32510").

[4] In Amendment No. 1, the Exchange (1) eliminated from its proposal the inclusion, in the Exchange's MRP and the Recommended Fine Schedule, of violations of certain proposed rules which either were pending before the Commission and not yet approved at the time this proposal was filed with the Commission, or are still pending before the Commission (See File Nos. SR–PSE–93–26 and SR–PSE–93–10, respectively); and (2) deleted a cross-reference to another rule which also is pending before the Commission and has not yet been approved (See File No. SR–PSE–93–19). See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Thomas N. McManus, Division of Market Regulation, Commission, dated Mach 28, 1994.

[5] See Securities Exchange Act Release No. 33956 (April 22, 1994), 59 FR 22700 (May 2, 1994).

[6] PSE Rule 10.3 governs the initiation of disciplinary proceedings by the Exchange for violations within the disciplinary jurisdiction of the Exchange.

[7] See Release 34–32510, *supra* note 3, for a more comprehensive explanation of the MRP procedures.

[8] The largest fine for a violation of one of these rules is $2,500 (for a third-time violation of the short sale rule).

[9] Such rule violations include (1) Smoking or Expectorating (EFPA 1–B); (2) Alcoholic Beverages (EFPA 1–B); and (3) Conduct of Guests (EFPA 1–B).

6(b)(6).[10] Specifically, the Commission believes that an exchange's ability to effectively enforce compliance by its members and member organizations with Commission and Exchange rules is central to its self-regulatory functions. The inclusion of a rule in an exchange's minor rule violation plan, therefore, should not be interpreted to mean it is not an important rule. On the contrary, the Commission recognizes that the inclusion of minor violations of particular rules under a minor rule violation plan may make the exchange's disciplinary system more efficient in prosecuting more egregious and/or repeated violations of these rules, thereby furthering its mandates to protect investors and the public interest.

The Commission has previously found that the Exchange's MRP provides fair procedures for appropriately disciplining members and member organizations for minor rule violations that warrant a sanction more severe than a warning or cautionary letter, but for which a full disciplinary proceeding would be unsuitable because such a proceeding would be costly and time-consuming in view of the minor nature of the violation.[11]

The Commission finds that violations of the Exchange rules proposed to be added to the MRP are either objective or technical in nature and are easily verifiable, thereby lending themselves to the use of expedited proceedings. For example, noncompliance with the 75% Primary Appointment requirement, or with the 60% in-person trading requirement, are matters which may be determined objectively and adjudicated quickly without the complicated factual and interpretive inquiries associated with more sophisticated Exchange disciplinary proceedings. If the Exchange determines that a violation of one of these rules is not minor in nature, the Exchange retains the discretion to initiate full disciplinary proceedings in accordance with PSE Rule 10.3. The Commission expects the PSE to bring full disciplinary proceedings in appropriate cases (*e.g.*, in cases where the violation is egregious or where there is a history or pattern of repeat violations).

In addition, the recommended fines proposed to be added by the Exchange to the Recommended Fine Schedule are graduated to account for repeat offenders. The Commission expects the Exchange to commence a formal disciplinary proceeding under PSE Rule 10.3, and impose more serious sanctions, if it determines that a violation otherwise covered by the MRP is not minor in nature, in the event of repeat violations of a certain rule by a particular member or member organization, or in any other appropriate circumstance. The fine schedules should result in appropriate discipline of members, in a manner that is proportionate to the minor nature of such violations. Further, the Commission believes that calculating fines on a running two-year basis (or on a running one-year basis for certain rule violations), while preserving the Exchange's ability to increase the sanction for subsequent violations, is an equitable approach that accounts for the possibility that a substantial period of time may elapse between violations.

Finally, the PSE has represented that the Recommended Fine Schedule will be circulated periodically to members of the Exchange. The Commission believes that the publicizing of the Recommended Fine Schedule further enhances the fairness of the MRP.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–PSE–93–31), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17033 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34340; File No. SR–NYSE–94–27]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Content Outline for the General Securities Registered Representative (Series 7) Examination

July 8, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 30, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NYSE. 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

NYSE has filed a proposed Content Outline for the General Securities Registered Representative (Series 7) Examination ("Series 7").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE 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. NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to revise and update the Content Outline for the Series 7 examination. The Series 7 examination was created in 1974 as an industry-wide qualification examination for persons seeking registration as general securities representatives. The Series 7 examination is generally required under rules of the self-regulatory organizations ("SROs") for persons who are engaged in the solicitation, purchase, and/or sale of securities for the accounts of customers. The purpose of the Series 7 examination is to ensure that registered representatives have the basic knowledge necessary to perform their functions and responsibilities. The Series 7 Content Outline details the subject coverage and question allocation of the examination.

Revision of the Series 7 examination and Content Outline was initiated in April 1993 by an industry committee of SROs and representatives from broker-dealers in order to update the examination in view of changes in the securities industry, including changes in relevant rules and regulations, the development of new securities products, and changes in the job of registered representatives as firms offer an increasingly wide range of financial

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[10] 15 U.S.C. 78f(b) (5) and (6) (1988). Section 6(b)(5) of the Act requires that the rules of an exchange protect investors and the public interest. Section 6(b)(6) of the Act requires that the rules of an exchange provide that its members be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the Exchange's rules.

[11] See Release 34–32510, *supra* note 3.

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

services.[2] The Content Outline for the Series 7 examination has not been revised since 1986.

The industry committee updated the existing statements of the critical functions of registered representatives to ensure current relevance and appropriateness, drafted statements of tasks expected to be performed by entry-level registered representatives, and conformed the existing Content Outline to the task statements. The Content Outline reflects the revised content of the examination. Under the proposed rule change, the total number of questions in the Series 7 examination will remain 250, and the revised examination will cover all financial product areas covered on the present Series 7 examination as well as several new products, including collateralized mortgage obligations ("CMOs"), long term equity anticipated securities ("LEAPS") and CAPS, with reduced emphasis on direct participation programs.

Under the proposed rule change, NYSE will appoint a committee to review the Series 7 Content Outline and specifications periodically to determine any adjustments that may be required. The committee will represent a broad range of expertise, such as practicing registered representatives, branch managers, compliance officers, training personnel, and SRO representatives. The review will address any new information that registered representatives need to know, information currently specified in the examination that may require deletion and any adjustments that need to be made in the emphasis on various topics.

The other SRO participants will also file the revised Content Outline for approval by the Commission. NYSE intends to commence use of the revised Content Outline ninety days after approval by the Commission.

(b) Statutory Basis

The statutory basis for the Series 7 examination lies in Section 6(c)(3)(B) of the Act. Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory obligation, the Exchange has developed examinations that are administered to establish that persons associated with Exchange members and member organizations have attained specified levels of competence and knowledge.

B. Self-Regulatory Organization's Statement on Burden on Competition

NYSE believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 above-referenced self-regulatory organization. All submissions should refer to File No. SR–NYSE–94–27 and should be submitted by August 4, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–17095 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34341; File No. SR–NYSE–94–26]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Examination Specifications for the General Securities Registered Representative (Series 7) Examination

July 8, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] Notice is hereby given that on June 30, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NYSE. 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

NYSE has filed the Examination Specifications for the General Securities Registered Representative (Series 7) Examination ("Series 7") and seeks approval for the Series 7 examination.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to revise, update and seek approval for the Series 7 examination and specifications. The Series 7

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[2] SROs on the committee include NYSE, American Stock Exchange, Chicago Board Options Exchange, Municipal Securities Rulemaking Board, National Association of Securities Dealers and Philadelphia Stock Exchange. Broker-dealer representatives include branch office managers, compliance officers, training personnel and registered representatives.

[3] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

examination was created in 1974 as an industry-wide qualification examination for persons seeking registration as general securities representatives. The Series 7 examination is generally required under rules of the self-regulatory organizations ("SROs") for persons who are engaged in the solicitation, purchase and/or sale of securities for the accounts of customers. The purpose of the Series 7 examination is to ensure that registered representatives have the basic knowledge necessary to perform their functions and responsibilities. The Series 7 examination specifications detail the areas covered by the examination and break down the number of examination questions culled from each area.

Revision of the Series 7 examination and specifications was initiated in April 1993 by an industry committee of SROs and representatives from broker-dealers in order to update the examination in view of changes in the securities industry, including changes in relevant rules and regulations, the development of new securities products, and changes in the job of registered representatives as firms offer an increasingly wide range of financial services.[2] The examination specifications for the Series 7 have not been revised since 1986.

The industry committee updated the existing statements of the critical functions of registered representatives to ensure current relevances and appropriateness and drafted statements of tasks expected to be performed by entry-level registered representatives. Under the proposed rule change, the total number of questions in the Series 7 examination will remain 250, and the revised examination will cover all financial product areas covered by the present Series 7 examination as well as several new products, including collateralized mortgage obligations ("CMOs"), long term equity anticipation securities ("LEAPS") and CAPS, with reduced emphasis on direct participation programs.

Under the proposed rule change, NYSE will appoint a committee to review the Series 7 Content Outline and specifications periodically to determine any adjustments that may be required. The committee will represent a broad range of expertise, such as practicing registered representatives, branch managers, compliance officers, training personnel, and SRO representatives. The review will address any new information that registered representatives need to know, information currently specified in the examination that may require deletion and any adjustments that need to be made in the emphasis on various topics.

The other SRO participants will also file the revised specifications for approval by the Commission. NYSE intends to commence use of the revised examination and specifications ninety days after approval by the Commission.

(b) Statutory Basis

The statutory basis for the Series 7 examination lies in Section 6(c)(3)(B) of the Act. Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory obligation, the Exchange has developed examinations that are administered to establish that persons associated with Exchange members and member organizations have attained specified levels of competence and knowledge.

B. Self-Regulatory Organization's Statement on Burden on Competition

NYSE believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 above-referenced self-regulatory organization. All submissions should refer to File No. SR–NYSE–94–26 and should be submitted by August 4, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17097 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34335; File No. SR–NYSE–94–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Content Outline for the General Securities Sales Supervisor (Series 8) Examination

July 8, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder[2] notice is hereby given that on June 28, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[2] SROs on the committee include NYSE, American Stock Exchange, Chicago Board Options Exchange, Municipal Securities Rulemaking Board, National Association of Securities Dealers and Philadelphia Stock Exchange. Broker-dealer representatives include branch office managers, compliance officers, training personnel and registered representatives.

[3] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed a proposed Content Outline for the General Securities Sales Supervisor ("Series 8") Examination.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The General Securities Sales Supervisor ("Series 8") Examination is an industry-wide qualification examination for securities sales supervisors. The Series 8 examination is generally required under rules of the self-regulatory organizations ("SROs") for persons who are engaged in the supervision of general securities branch offices (*i.e.*, branch office managers) and of general securities registered representatives. The Series 8 examination tests a candidate's knowledge of securities industry rules and regulations and certain statutory provisions applicable to general securities sales supervision. The Series 8 Content Outline details the subject coverage and question allocation of the examination.

Revision of the Series 8 examination and Content Outline was recently undertaken by an industry committee composed of representatives from SROs (the NYSE, the American Stock Exchange, the Chicago Board Options Exchange, the Municipal Securities Rulemaking Board, the National Association of Securities Dealers and the Philadelphia Stock Exchange) and representatives from broker-dealers, including branch office managers, compliance personnel and corporate executives, in order to update the examination in view of changes in relevant laws, rules and regulations, the development of new products, and to reflect various changes in industry practices. The committee reviewed the examination specifications, content areas and item bank and developed some new questions in new areas.

The revised examination continues to cover the areas of knowledge required to supervise sales activities in securities, however, the focus of the content of the examination has been shifted to concentrate more closely on supervisory duties. Accordingly, certain questions have been deleted from the examination which deal with routine calculations and basic product knowledge and questions on new federal and SRO rules and regulations have been incorporated into the exam, as well as questions on new products, supervision and changes in industry practices. The Content Outline reflects the revised content of the examination. The examination will remain a six-hour, two-part, 200 question examination. The other SRO participants will also file the revised Content Outline for approval by the SEC. The Exchange intends to commence use of the revised Content Outline ninety days after approval by the Commission.

(b) Statutory Basis

The statutory basis for the Series 8 Examination lies in Section 6(c)(3)(B) of the Act. Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory obligation, the Exchange has developed examinations that are administered to establish that persons associated with Exchange members and member organizations have attained specific levels of competence and knowledge.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–23 and should be submitted by August 4, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17098 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34336; File No. SR–NYSE–94–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Examination Specifications for the General Securities Sales Supervisor (Series 8) Examination

July 8, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder[2] notice is hereby given that on June 28, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1994).

the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed the proposed Examination Specifications for the General Securities Sales Supervisor ("Series 8") Examination.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The General Securities Sales Supervisor ("Series 8") Examination is an industry-wide qualification examination for securities sales supervisors. The Series 8 examination is generally required under rules of the self-regulatory organizations ("SROs") for persons who are engaged in the supervision of general securities branch offices (*i.e.*, branch office managers) and of general securities registered representatives. The Series 8 examination tests a candidate's knowledge of securities industry rules and regulations and certain statutory provisions applicable to general securities sales supervision. The Series 8 examination specifications detail the areas covered by the examination and break down the number of examination questions culled from each area.

Revision of the Series 8 examination and specifications was recently undertaken by an industry committee composed of representatives from SROs (the NYSE, the American Stock Exchange, the Chicago Board Options Exchange, the Municipal Securities Rulemaking Board, the National Association of Securities Dealers and the Philadelphia Stock Exchange) and representatives from broker-dealers, including branch office managers, compliance personnel and corporate executives, in order to update the examination in view of changes in relevant laws, rules and regulations, the development of new products, and to reflect various changes in industry practices. The committee reviewed the examination specifications, content areas and item bank and developed some new questions in new areas.

The revised examination continues to cover the areas of knowledge required to supervise sales activities in securities, however, the focus of the content of the examination has been shifted to concentrate more closely on supervisory duties. Accordingly, certain questions have been deleted which deal with routine calculations and basic product knowledge and questions on new federal and SRO rules and regulations have been incorporated into the exam, as well as questions on new products, supervision and changes in industry practices. The revised examination and specifications include coverage of these new areas. The examination will remain a six-hour, two-part, 200 question examination.

The other SRO participants will also file the revised examination and specifications for approval by the SEC. The Exchange intends to commence use of the revised examination specifications ninety days after approval by the Commission.

(b) Statutory Basis

The statutory basis for the Series 8 Examination lies in Section 6(c)(3)(B) of the Act. Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory obligation, the Exchange has developed examinations that are administered to establish that persons associated with Exchange members and member organizations have attained specific levels of competence and knowledge.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–24 and should be submitted by August 4, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17099 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[3] As part of the proposed rule change, the NYSE is also seeking approval of the Series 8 examination itself.

[Release No. 34–34334; File No. SR–NYSE–94–13]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Interpretation to Rule 345 Establishing a New Category of Limited Registration for Floor Clerks, and the Content Outline for the Examination Module for Floor Clerks of Members Engaged in Public Business With Professional Customers (Series 7B)

July 8, 1994.

I. Introduction

On March 28, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed interpretation to NYSE Rule 345 to establish a new category of limited registration for floor clerks of members engaged in public business with professional customers and to adopt the Series 7B Examination and corresponding Content Outline for the Examination Module for Floor Clerks of Members Engaged in Public Business with Professional Customers.

The proposed rule change was published for comment in Securities Exchange Act Release No. 34033 (May 10, 1994), 59 FR 25514 (May 16, 1994). No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange is adopting a Series 7B Examination as a subset of the General Securities Registered Representative Examination ("Series 7") to test the knowledge of relevant securities laws and Exchange rules required of floor clerks of members who accept public orders only from professional customers, as defined in the proposal, for execution on the trading floor.[3] In addition, the NYSE is amending Interpretation .15 to Rule 345 ("Qualifications") to establish, as a new category of registration, limited registration for floor clerks who have successfully completed the Series 7B Examination.

Currently, a floor clerk who is associated with a member and who takes orders from public customers must become a registered representative and pass the Series 7 Examination. The Exchange states that such public business is often limited to accepting orders from professional customers.[4] The Exchange believes that the level of knowledge required to perform the activities engaged in by clerks who conduct a professional public business limited to transactions in listed securities on the Exchange floor is narrower in content and scope than that needed to conduct an overall general securities business with retail customers.

On July 29, 1993, the Commission approved a proposed rule change by the NYSE that adopted the Series 7A Examination as a module of the Series 7 Examination to test floor members who only accept public orders from professional customers.[5] According to the Exchange, these floor members have requested that their floor clerks who take public orders solely from professional customers also be allowed to take a qualifying examination more appropriate to the level of knowledge required to serve professional customers. Consequently, the NYSE developed the Series 7B Examination to test the knowledge of floor clerks who accept public orders only from professional customers on behalf of members qualified to conduct business with these professional customers by complementing the Series 7A Examination module with questions on basic information required to perform floor functions.[6]

The NYSE believes that the proposal is consistent with section 6(c)(3)(B) of the Act. The Exchange states that, pursuant to this statutory obligation, it has developed examinations that are administered to establish that Exchange floor members and persons associated with such members performing specific functions have attained specified levels of competence and knowledge.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of sections 6(b)(5) and 6(c)(3)(B) of the Act.[7] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(c)(3)(B) provides that a national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange, and require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.

The Commission also believes that the proposed rule change is consistent with section 15(b)(7) of the Act[8] which stipulates that prior to effecting any transaction in, or inducing the purchase or sale of, any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer and all natural persons associated with such broker or dealer must meet certain standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors.

The Commission believes that the Series 7B examination requirement should help to ensure that only those floor clerks with a comprehensive knowledge of Exchange rules, as well as an understanding of the Act, will be able to conduct a public business limited to accepting orders directly from professional customers for execution on

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The proposal would define a professional customer to include: a bank; a trust company; an insurance company; an investment trust; a state or political subdivision thereof; a charitable or non-profit educational institution regulated under the laws of the United States or any state or pension or profit sharing plan subject to ERISA or of an agency of the United States, or of a state or a political subdivision thereof, or any person who has, or has under management, net tangible assets of at least sixteen million dollars.

For purposes of the definition of professional customer, the term "person" would mean the same as that term is defined in NYSE Rule 2, except that it would not include natural persons.

The Exchange states that the above definition is derived from the term "designated account" as used in NYSE Rule 431 ("Margin Requirements") and interpretations thereof to describe a professional or sophisticated customer.

[4] Telephone conversation between Mary Ann Furlong, Director, Rule and Interpretive Standards, NYSE, and Louis A. Randazzo, Attorney, Office of Market Supervision, SEC, Division of Market Regulation, on June 17, 1994.

[5] See Securities Exchange Act Release No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993) (order approving File No. SR–NYSE–93–10).

[6] The Exchange will continue to require the successful completion of the Series 7 Examination for any floor clerk seeking to become a registered representative dealing with other than professional customers. In addition, any person who has successfully completed the Series 7 Examination will not be required to complete the Series 7B Examination.

[7] 15 U.S.C. 78f(b)(5) and (c)(3)(B) (1988).

[8] 15 U.S.C. 78o(b)(7) (1988).

the trading floor. In this regard, the Commission carefully reviewed the format and the substantive areas tested on the Series 7B examination. In reviewing the examination, the Commission focused on the comprehensiveness and the choice of specific questions and their level of difficulty. The Commission believes that the examination questions cover the appropriate subject matter and include a sufficiently broad range of topics so as to require an appropriate level of expertise by floor clerks of members who conduct a public business limited to accepting orders directly from professional customers. By ensuring this requisite level of knowledge, the NYSE can remain confident that its limited registration floor clerks have demonstrated an acceptable level of securities knowledge to carry out their responsibilities.

The Commission also has determined that the Content Outline for the Series 7B Examination is sufficiently detailed and covers the appropriate information so as to provide an adequate basis for studying the topics covered on the examination. This outline should help to ensure that those persons taking the Series 7B fully understand the subject matter of the examination.

Finally, the Commission believes that the proposed limited registration requirement for floor clerks of members engaged in a public business with professional customers is reasonable and is consistent with the requirements of Section 6(b)(5) and 6(c)(3)(B) of the Act. This new category of registration would permit only those floor clerks who have demonstrated adequate skills and knowledge to conduct a public business which is generally limited to accepting orders directly from professional customers. The NYSE has argued that the level of knowledge, skills and abilities necessary to conduct such business is less than that needed to conduct a full service business with retail customers. The Commission believes that, because the NYSE will ensure that floor clerks handling professional customer business are adequately qualified through the use of either the Series 7 or Series 7B exam, it is consistent with the NYSE's regulatory responsibilities to establish this category of limited registration.

IV Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSE–94–13) is approved.

[9] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17100 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34338; File Nos. SR–PSE–93–19]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Extension of Market Maker Margin and Capital Treatment to Certain Market Maker Orders Entered From Off the Trading Floor

July 8, 1994.

On August 13, 1993, as amended on March 28, 1994, April 21, 1994, and May 6, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposal to extend market maker capital and margin treatment to orders entered by PSE market makers from off the Exchange floor, provided that at least 80% of their total transactions on the Exchange are executed in person and not through the use of orders. In addition, the proposal requires that all off-floor orders for which a market maker receives market maker treatment be consistent with a market maker's duty to maintain fair and orderly markets and, in general, be effected for the purpose of hedging, reducing the risk of, or rebalancing open positions of the market maker. The PSE originally proposed requiring that 75% of a market maker's total transactions on the PSE be executed on the PSE's floor. In addition, the original proposal did not contain any reference to market making obligations.

The original proposal was published for comment in Securities Exchange Act Release No. 32958 (September 24, 1993), 58 FR 51661 (October 4, 1993). No comments were received on the proposal. This order approves the PSE's proposal, as amended.[3]

Currently, under PSE Rule 6.32, "Market Maker Defined," only transactions initiated on the PSE's floor count as market maker transactions. Thus, only on-floor market maker transactions qualify for favorable capital and margin treatment under the PSE's rules, even if such orders are entered to adjust or hedge the risk of positions of the market maker that result from his on-floor market making activity.[4] The PSE states that because a market maker cannot effectively adjust his positions or engage in hedging or other risk limiting opening transactions from off the Exchange floor without incurring a significant economic penalty, PSE market makers must either be physically present on the floor at all times while the market is open, or face significant risks of adverse market movements during those times when they must necessarily be absent from the trading floor. The PSE argues that by imposing costs on certain hedging or risk-adjusting transactions of market makers, the PSE's current rules may prevent market makers from effectively discharging their market making obligations and expose them to unacceptable levels of risk.

The Exchange states that its proposal is designed to accommodate the occasional needs of PSE market makers to adjust or hedge options positions in their market maker accounts at times

[10] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1984).

[2] 17 CFR 240.19b–4 (1993).

[3] On March 28, 1994, the PSE amended its proposal to change references in PSE Rule 6.32, Commentary .02 from "Commentary .07(A)" to "Commentary .07" and to change the phrase "set forth in" to "provided in" ("Amendment No. 1"). Amendment No. 1 is technical in nature and makes no substantive changes. On April 21, 1994, the PSE amended its proposal to provide that 80%, rather than 75%, of a market maker's total transactions on the PSE be executed in person on the PSE's floor ("Amendment No. 2"). In addition, Amendment No. 2 states that the off-floor orders for which a market maker receives market-maker treatment shall be consistent with a market maker's duty to maintain fair and orderly markets and in general shall be effected for the purpose of hedging, reducing the risk of, or rebalancing open positions of the market maker. By a letter dated May 6, 1994, the PSE deleted a provision that provided that market makers who elected to enter orders from off the Exchange's floor but failed to meet the 80% requirement would be subject to the sanctions provided in PSE Rule 6.37, "Obligations of Market Makers," Commentary .07. See Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Staff Attorney, Options Branch, Division of Market Regulation ("Division"), Commission, dated May 6, 1994 ("Amendment No. 3"). Instead, under Amendment No. 3, market makers who fail to comply with the proposal's requirements will be subject to disciplinary proceedings under PSE Rule 10. By a letter dated June 13, 1994, the Exchange indicated that it plans to issue a circular to its members describing the proposal and emphasizing the importance of monitoring off-floor trading activity. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Yvonne Fraticelli, Staff Attorney, Options Branch, Division, Commission, dated June 13, 1994 ("June 13 Letter").

[4] Questions of margin and capital treatment do not arise in connection with closing transactions initiated from off the floor, since they only reduce or eliminate existing positions.

when they are not physically present on the trading floor, without diluting the requirement that the trading activity of market makers must fulfill their market making obligations and must contribute to the maintenance of a fair and orderly market on the Exchange.

Currently, under PSE Rule 6.35, "Appointment of Market Makers," Commentary .03, all PSE market makers are obligated to effect not less than 75% of their contract volume in their appointed classes of options. In addition, under PSE Rule 6.37, Commentary .07, PSE market makers are required to effect not less than 60% of their total transactions in person on the trading floor and not by entry of orders. The PSE proposes to amend Exchange Rule 6.32, "Market Maker Defined," Commentary .02, to allow market makers who elect to meet a more stringent in-person requirement to receive market maker margin and capital treatment for opening transactions executed through off-floor orders. Specifically, the PSE proposes to amend PSE Rule 6.32 to allow market makers to elect to receive market maker treatment for off-floor opening transactions if the market maker, in addition to satisfying all of the other existing obligations imposed on market makers, executes at least 80% of his total transactions for any calendar quarter in person and not through the use of orders. In addition, the off-floor orders for which a market maker receives market maker treatment shall be consistent with a market maker's duty to maintain fair and orderly markets and in general shall be effected for the purpose of hedging, reducing risk of, rebalancing or liquidating open positions of the market maker.[5]

PSE market makers who elect market maker treatment for off-floor opening transactions but fail to satisfy the proposal's requirements, including the 80% in-person requirement, will be subject to full disciplinary proceedings under Chapter 10 of the PSE's rules.[6] Under PSE Rule 10.1, "Disciplinary Jurisdiction," the Exchange may impose appropriate discipline for violations of the Act and the Exchange's rules, including expulsion, suspension, limitation of activities, functions, and operations, suspension or bar from association with a member or member organization, fine, censure, or any other fitting sanction.

The PSE believes that the amended proposal presents a more appropriate and realistic treatment of market maker transactions initiated from off the trading floor than what is provided for under existing Exchange Rule 6.32. The PSE believes that extending favorable margin and capital treatment for off-floor transactions only to those market makers who submit to an 80% in-person requirement should have the effect of increasing the extent to which market maker transactions contribute to liquidity and to the maintenance of fair and orderly markets on the PSE by providing for a greater degree of in-person trading by market makers and by enabling market makers to better manage the risk of their market making activities.

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it will promote the maintenance of fair and orderly markets on the PSE and will contribute to the protection of investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) in that the proposal is designed to promote just and equitable principles of trade and to protect investors and the public interest.[7] In addition, the Commission finds that the proposal is consistent with the requirement under Section 11(a) of the Act that a member's transactions not be inconsistent with the maintenance of fair and orderly markets.[8]

The Commission believes that the proposal is a reasonable effort by the PSE to accommodate the needs of PSE market makers to effect off-floor opening transactions while maintaining the requirement under PSE Rule 6.37(a) that market makers' transactions constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. Specifically, in order to qualify for market maker treatment for off-floor orders, the proposal requires a market maker to execute at least 80% of his total transactions for any calendar quarter in person and not through the use of orders. In addition, the proposal states that the off-floor orders for which a market maker receives market maker treatment shall be consistent with a market maker's duty to maintain fair and orderly markets and in general shall be effected for the purpose of hedging, reducing risk of, rebalancing or liquidating open positions of the market maker. The Commission believes that these requirements, taken together, will help to ensure that all market maker transactions continue to contribute to the maintenance of a fair and orderly market while, at the same time enabling market makers to better manage the risk of their market making activities.

Under the current requirements, market makers who adjust existing positions for hedging purposes while not physically present on the floor cannot receive market maker margin treatment for such orders under any circumstances and must decide whether to close out their positions or place an order in a customer margin account requiring 50% margin. While the Commission believes that this may not be an unreasonable result in many cases, the Commission believes that the PSE has set forth a reasonable proposal that permits market maker treatment for certain off-floor orders under very limited circumstances that ensure that such orders must contribute to the maintenance of fair and orderly markets and require market makers to comply with a heightened 80% in person trading requirement.

By requiring both more stringent in person trading requirements and that off-floor opening transactions be effected only for the purpose of hedging, reducing the risk of, rebalancing or liquidating open positions, the proposal should help to ensure the stability and orderliness of the PSE's markets.

The Commission expects the PSE to closely monitor those market makers electing to receive market maker treatment for certain off-floor orders as provided under the proposal to ensure that they are meeting the in person trading requirements in addition to the other market making obligations required under the proposal. The PSE has represented that market makers who choose to receive favorable margin and capital treatment under the proposal but fail to satisfy the proposal's requirements will be subject to full disciplinary proceedings under Chapter 10 of the PSE's rules. As noted above, the sanctions possible under Chapter 10 include expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction. The Commission expects the Exchange to impose strict sanctions for violations of the rule, particularly in cases of egregious or repeated failures to comply with the rule's requirements.[9]

[5] See Amendment No. 2, *supra* note 3.

[6] See Amendment No. 3, *supra* note 3.

[7] 15 U.S.C. 78f(b)(5) (1982).

[8] 15 U.S.C. 78k (1982).

[9] The PSE plans to distribute a circular to its membership describing the rule change and

Finally, the Commission notes that the staff of the Board of Governors of the Federal Reserve System ("Board") has issued a letter raising no objection to the Commission's approval of an identical proposal by the Chicago Board Options Exchange, Inc. ("CBOE"),[10] based on the Commission's belief that the off-floor transactions of CBOE market makers under the proposal are designed to contribute to the maintenance of a fair and orderly market and are consistent with the obligations of a specialist under section 11 of the Act.[11]

The Commission finds good cause for approving Amendment Nos. 2 and 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 2, which increases the in-person requirement from 75% to 80% and requires a market maker's off-floor transactions to be effected for the purpose of hedging, reducing risk of, rebalancing or liquidating open positions, limits the likelihood of abuse of the proposed rule change by limiting its availability to market makers who enter 80% of their orders in person on the PSE's floor and by requiring that the off-floor orders have a legitimate market making purpose. Moreover, the PSE's Amendment No. 2 is identical to Amendment No. 1 to the CBOE's proposal. The CBOE's Amendment No. 1 was published for comment in the **Federal Register** and the Commission received no comments on the CBOE's amendment.[12] The PSE's Amendment No. 3, which provides for full disciplinary proceedings for failures to comply with the proposal's requirements, is consistent with the CBOE's proposal and should help to ensure compliance with the requirements of the proposed rule. As a result, the Commission believes that good cause exists for approving Amendment Nos. 2 and 3 on an accelerated basis.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 4, 1994.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, [13] that the proposed rule change (File No. SR–PSE–93–19), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17096 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—20391; 812–8068]

Thornburg Income Trust, et al.; Notice of Application

July 8, 1994.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Thornburg Income Trust, Limited Term Municipal Fund, Inc. (together with their series, the "Funds"), Thornburg Securities Corporation ("TSC") and Thornburg Management Company, Inc. ("TMC").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act granting an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act, and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting certain open-end management investment companies to issue multiple classes of shares representing interests in the same portfolio of securities and impose a contingent deferred sales charge ("CDSC") on certain redemptions of the shares.

FILING DATES: The application was filed on August 24, 1992 and amended on January 12, 1994 and April 25, 1994. By letter dated July 8, 1994, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 2, 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 5th Street, N.W., Washington, D.C. 20549. Applicants, 119 East Marcy Street, Suite 202, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Senior Attorney, at (202) 942–0571, 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. Each of the Funds is an open-end management investment company registered under the Act. Limited Term Municipal Fund, Inc. is a Maryland corporation currently offering shares in two series.[1] The Thornburg Income Trust is a Massachusetts business trust currently offering shares in five series. The Thornburg Income Trust also has seven series that have an effective registration statement but they are not

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emphasizing the importance of monitoring off-floor trading activity. *See* June 13 Letter, *supra* note 3.

[10] See File No. SR–CBOE–93–19.

[11] See Letter from Scott Holz, Senior Attorney, Board, to Howard Kramer, Associate Director, Division, Commission, dated March 9, 1994.

[12] See Securities Exchange Act Release No. 33853 (April 1, 1994), 59 FR 16869 (April 8, 1994) (File No. SR–CBOE–93–19).

[13] 15 U.S.C. 78s(b)(2) (1982).

[14] 17 CFR 200.30–3(a)(12) (1993).

[1] The series of Limited Term Municipal Fund, Inc. are Limited Term Municipal Fund National Portfolio and Limited Term Municipal Fund California Portfolio.

currently offered.[2] Each Fund has entered into an investment advisory aggreement with TMC, a registered investment adviser. Under the agreement, TMC provides investment advisory and general management services to the Funds, subject to the general supervision of the Fund's board of directors or trustees, whichever is applicable. Each Fund also has entered into a distribution agreement with TSC under which TSC acts as principal underwriter for each Fund. TMC is referred to herein as the "Adviser" and TSC as the "Distributor." The trustees and directors of the Funds are referred to herein as the "Directors."

2. Applicants request that any order issued concerning this application also apply to any other open-end investment company which at any time in the future may offer shares on a basis which is identical in all material respects to the arrangements described in the application, and for which TMC, or any person controlled by or under common control with TMC, in the future may serve as investment adviser, and for which TSC, or any person controlled by or under common control with TSC, acts as distributor of such company's shares.

3. Currently, those Funds that have commenced operations offer their shares at net asset value plus a front-end sales load. Each of those Funds also pays TMC a rule 12b–1 service fee at an annual rate of .125% to .25% of the average daily net assets.

4. Applicants seek relief to implement a multiple distribution system (the "Alternative Pricing System"). Under this system, each of the Funds may offer investors the option of purchasing: shares subject to a front-end sales load and a rule 12b–1 service fee ("Class A"); shares subject to a CDSC and distribution and service fees charged under rule 12b–1 plans ("Class B"); shares sold at net asset value but subject to distribution and service fees charged under rule 12b–1 plans ("Class C"); and shares subject to a smaller front-end sales load than that charged on Class A shares and a smaller CDSC than that charged on Class B shares plus distribution and service fees charged under rule 12b–1 plans ("Class D").

5. The Funds also may offer additional classes of shares ("Future Classes") to or through groups, organizations or institutions such as trade associations, membership or professional organizations, broker-dealers, investment advisers and managers, banking and financial services organizations and financial planners (the "Service Organizations"). Each Future Class's load structure and rule 12b–1 distribution arrangement will be designed to meet the particular requirements of the Service Organization to which it relates. Although the Future Classes would be subject to the same advisory agreement as all shares of the fund, the Service Organization for which the Future Class was created may provide certain administrative and shareholder services to the class. These services will augment or replace (and not be duplicative of) the services provided by TMC and TSC. Expenses attributable to these services would be charged only to the Future Class to which the expenses relate.

6. Certain classes may provide a conversion feature under which shares will convert automatically after a period of time into shares that are subject to an asset based sales charge and service fee, if any, that is in the aggregate lower than the asset based sales charges and service fees on the original shares. All conversions will be effected at net asset value without the imposition of any sales load, fee, or other charge.

7. Each of the Funds currently offers a reinvestment privilege permitting any shareholder of a Fund who has redeemed shares in the preceding 24 months to buy shares in the Fund at net asset value, up to the amount of the redemption proceeds. Applicants expect to continue this reinvestment privilege under the Alternative Pricing System, except that the shareholder may reinvest in shares of a Fund within 24 months or other specified time period at net asset value only if (i) the shares to be purchased are offered in the shareholder's state, and (ii) the purchased shares are of the same class designation as the shares redeemed, except that if the shareholder redeemed shares subject to a CDSC and paid the charge at the time of redemption, the shareholder would be issued Class A shares not subject to a CDSC and without the front-end sales load normally assessed.

8. The Funds do not currently offer any exchange privilege, and have no present intention to do so. However, if an exchange privilege were offered in the future, shares of a Fund generally would be exchangeable only for shares of the corresponding class of other Funds and the privilege would be subject to the eligibility criteria applicable to the class of shares into which the shareholder seeks to exchange. Any exchange privilege applicable to any Fund or class of shares would comply with rule 11a–3 under the Act.

9. Under the Alternative Pricing System, the investment income and gains or losses will be allocated to each class of shares based upon its relative percentage of the Fund's net assets. Expenses also will be allocated to each class based upon its relative percentage of the Fund's net assets except to the extent: (a) Each class bears the specific expenses of the class's rule 12b–1 plans (if any), and (b) Class Expenses (as described in condition 1) are allocated to a specific class. Because of the differing rule 12b–1 fees and Class Expenses, the net income per share of (and dividends per share payable to) each class likely will be different from the net income per share of the other classes of shares of the Fund.

10. Applicants also seek relief to permit the Funds to assess a CDSC on redemptions of certain classes of shares. Shares of the Funds may be subject to the imposition of a CDSC if such shares are redeemed within a specified period after their purchase. The CDSC will apply only to those shares that are issued by the Fund after the SEC grants the requested exemption.

11. No CDSC would be imposed with respect to: (a) Redemptions of shares that were purchased more than a fixed number of years prior to the redemptions; (b) shares derived from reinvestment of distributions; or (c) the amount that represents an increase in the value of the shareholder's account resulting from capital appreciation. The amount of the CDSC will be calculated as the lesser of the amount that represents a specified percentage of the net asset value of the shares at the time of purchase, or the amount that represents such percentage of the net asset value of the shares at the time of redemption.

12. In determining the applicability and rate of any CDSC, shares that are not subject to any deferred sales charge are redeemed first, and then other shares will be redeemed in order of purchase, except that another order of redemption may be employed if that would result in the shareholder paying a lower deferred sales charge. If a shareholder owns more than one class of shares, the classes will be redeemed in an order which will result in the

[2] The series of Thornburg Income Trust are: Thornburg Limited Term U.S. Government Fund, Thornburg Limited Term Income Fund, Thornburg Alabama Intermediate Municipal Fund, Thornburg Arizona Intermediate Municipal Fund, Thornburg Florida Intermediate Municipal Fund, Thornburg Indiana Intermediate Municipal Fund, Thornburg New Mexico Intermediate Municipal Fund, Thornburg Pennsylvania Intermediate Municipal Fund, Thornburg Tennessee Intermediate Municipal Fund, Thornburg Texas Intermediate Municipal Fund, Thornburg Utah Intermediate Municipal Fund, and Thornburg Intermediate Municipal Fund.

lowest possible sales charge, unless the shareholder specifies otherwise.

13. The sum of any front-end sales charge, CDSC, and asset based sales charge imposed by each Fund will not exceed the maximum sales charge then provided for in Article III, Section 26(d) of the Rules of Fair Practice of the NASD. In addition, any CDSC will apply only to shares issued by a Fund after the SEC grants the requested exemptive relief.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) from sections 18(f), 18(g), and 18(i) to issue multiple classes of shares representing interests in the same portfolio of securities. Applicants believe that, by implementing the multiple class distribution system, the Funds would be able to facilitate the distribution of their shares and provide a broad array of services without assuming excessive accounting and bookkeeping costs. Applicants also believe that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. The proposed arrangement does not involve borrowings, affect the Funds' existing assets or reserves, or increase the speculative character of the shares of a Fund.

2. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d), and rule 22c–1, to assess and, under certain circumstances, waive a CDSC on redemptions of shares. Applicants believe that their request to permit the CDSC arrangement would place the purchaser in a better position than if a sales load were imposed at the time of sale, since the shareholder may have to pay only a reduced sales charge.

Applicants' Conditions

Applicants agree that the order 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, except as set forth below. The only differences among the various classes of shares of the same Fund will relate solely to: (a) The impact of the Class Expenses, which are limited to (i) Transfer agency fees as identified by the transfer agent as being attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxy materials to current shareholders; (iii) blue sky fees and costs attributable to registration, qualification or exemption of the class' shares; (iv) SEC registration fees incurred by a class of shares; (v) administrative expenses required to support the shareholders of a specific class; (vi) litigation or other legal expenses relating solely to one class of shares; and (vii) any other expenses subsequently identified that should be properly allocated to one class that shall be approved by the SEC pursuant to an amended order; (b) the impact of the disproportionate payments made under the rule 12b–1 distribution plans and service fees; (c) the fact that each class will vote separately with respect to the Fund's rule 12b–1 distribution plans applicable to that class of the Fund, except as provided in condition number 13, below; (d) the fact that only certain classes will have a conversion feature; (e) the fact that certain classes will have different exchange privileges; and (f) the designation of each class of shares of a Fund.

2. The Directors of each of the Funds, including a majority of the independent Directors, will approve the Alternative Pricing System, prior to the implementation of the Alternative Pricing System by a particular Fund. The minutes of the meetings of the Directors of each of the Funds regarding the deliberations of the Directors with respect to the approvals necessary to implement the Alternative Pricing System will reflect in detail the reasons for determining that the proposed Alternative Pricing System is in the best interests of both the Funds and their respective shareholders.

3. On an ongoing basis, the Directors 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 Directors, including a majority of the independent Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the Directors. If a conflict arises, the Adviser and the Distributor at their own costs will remedy the conflict up to and including establishing a new registered management investment company.

4. The Directors of the Funds will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of one class of shares will be used to support the rule 12b–1 fee charged to shareholders of that class of shares. Expenditures not related to the sale or servicing of a specific class of shares will not be presented to the Directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Directors in the exercise of their fiduciary duties.

5. Dividends paid by a Fund with respect to each class of 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 with respect to each other class of shares of the Fund, except that distribution and shareholder services payments relating to each respective class of shares will be borne exclusively by that class, and any Class Expenses relating to a given class of shares will be borne exclusively by the affected class.

6. The methodology and procedures for calculating the net asset value and dividends/distributions of the various classes and the proper allocation of expenses among the various classes has been reviewed by an expert (the "Independent Examiner"). The Independent Examiner has rendered a report to the applicants, which has been provided to the staff of the SEC, 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 Independent Examiner, or an appropriate substitute Independent Examiner, 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 Independent Examiner shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Independent Examiner with respect to these reports, following request by the Funds which the Funds agree to make, will be available for inspection by the SEC staff upon the written request for the work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate or Assistant Administrators. The initial report of the Independent Examiner is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and

procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

7. The applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions among the various classes of shares and the proper allocation of expenses among the classes of shares, and this representation has been concurred with by the Independent Examiner in the initial report referred to in condition number 6 above and will be concurred with by the Independent Examiner, or an appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition number 6 above. The applicants agree to take immediate corrective action if the Independent Examiner, or appropriate substitute Independent Examiner, does not so concur in the ongoing reports.

8. The prospectuses of the Funds will include a statement to the effect that a salesperson and any other person entitled to receive any compensation for selling or servicing Fund shares may receive different levels of compensation with respect to one particular class of shares over another in a Fund.

9. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Directors of the Funds with respect to the Alternative Pricing System will be set forth in guidelines which will be furnished to the Directors.

10. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of that Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Funds' net asset value and public offering prices will present each class of shares separately.

11. The applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b–1 plans or shareholder services plans in reliance on the exemptive order.

12. Any class of shares with a conversion feature ("Purchase Class") will convert into another class of shares ("Target Class") on the basis of 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 NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

13. If a Fund implements any amendment to its rules 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, Purchase Class shares will stop converting into Target Class Shares unless shareholders of the Purchase Class, voting separately as a class, approve the proposal. The Directors shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to the Target Class as it existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the Directors 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 such existing Purchase Class shares in all material respects except that the New Purchase Class will convert into the New Target Class. The New Target Class and 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 Directors reasonably believe will not be subject to federal taxation. In accordance with condition 3, any additional cost associated with the creation, exchange, or conversion of the New Target Class or New Purchase Class shall be borne solely by the Advisor and the Distributor. Purchase Class shares sold after 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 are disclosed in an effective registration statement.

14. TSC, the Funds' distributor, will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards.

15. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Directors of the Funds including a majority of the Independent Directors. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the Directors, and the Directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

16. Any shareholder services plan with respect to any Future Class, which is not otherwise governed by rule 12b–1, 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.

17. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Release No. 16619 (November 2, 1989), as the rule is currently proposed and as it may be reproposed, adopted, or amended.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–17101 Filed 7–13–94; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Notice of the Results of the 1993 Annual GSP Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of results of 1993 Annual Review of the GSP.

SUMMARY: The purpose of this notice is to announce the disposition of the petitions accepted for review in the 1993 Annual Review of the GSP program.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 517, Washington, DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: This publication contains the dispositions of the petitions accepted for review in the 1993 Annual Review of the GSP program (58 FR 53959). These petitions requested changes in the list of articles and countries eligible for duty-free treatment under the GSP program. The GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461–2465) (the 1974 Act). The review was conducted pursuant to regulations codified as 15 CFR 2007. These changes took effect on July 1, 1994. The President's decisions concerning the 1993 Annual Review have also been reflected in a proclamation (59 FR 34329) and in a recent USTR press release (the press release is available by contacting the USTR Public Affairs Office at (202) 395–3230). All communications with respect to this notice should be addressed to the Director, Generalized System of Preferences, Room 517, 600 17th Street, NW., Washington, DC 20506.

The 1993 Annual GSP Review included reviews of internationally recognized worker rights practices in ten (10) GSP beneficiary countries. The reviews of worker rights practices in Bahrain, El Salvador, Fiji, Guatemala, Oman and Thailand were continued from the 1992 Annual GSP Review. The reviews of worker rights practices in the Dominican Republic, Maldives, Pakistan and Peru were based on petitions that were accepted in the 1993 Annual GSP Review. At the conclusion of the 1993 Annual GSP Review, Bahrain, El Salvador, Fiji, Oman and Peru were found to have taken or be taking steps to afford internationally recognized worker rights, as required by the GSP law. The reviews of worker rights practices in the Dominican Republic, Guatemala, Maldives, Pakistan and Thailand will be continued. The reviews of worker rights practices in the Dominican Republic and Guatemala will be continued for 90 days; the reviews of worker rights practices in Maldives and Pakistan will be continued for one year; and the review of worker rights practices in Thailand will be continued until certain worker rights are reinstated. In addition, the reviews of worker rights practices in Costa Rica, Malawi and Paraguay were terminated in December 1993, after Costa Rica, Malawi and Paraguay were found to have taken or be taking steps to afford internationally recognized worker rights, as required by the GSP law.

The 1993 Annual GSP Review included reviews of the adequacy and effectiveness of intellectual property rights (IPR) in eight (8) GSP beneficiary countries. The reviews of IPR practices in the Dominican Republic, Guatemala and Honduras were continued from the 1992 Annual GSP Review. The reviews of IPR practices in Cyprus, Egypt, El Salvador, Poland and Turkey were based on petitions that were accepted in the 1993 Annual GSP Review. At the conclusion of the 1993 Annual GSP Review, Cyprus, Egypt and Guatemala were found to provide adequate and effective IPR protection, as required by the GSP law. The reviews of IPR practices in the Dominican Republic, Honduras, El Salvador, Poland and Turkey will be continued. In addition, a petition that sought a review of IPR practices in Venezuela was withdrawn in October 1993.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

ANNEX I—1993 GSP ANNUAL REVIEW—PRODUCT PETITIONS

Case No.	Hts No.	Product	Decision
		A. Petitions To Add Products To GSP	
93–1	0805.30.40	Limes	Grant.
93–2	0806.20.10	Raisins from Seedless Grapes	Deny.
93–3	2309.90.90(PT)	Vitamin B12 for Animal Use	Grant.
93–4	2902.11.00	Cyclohexane	[1] Grant.
93–5	2918.30.20(PT)	Bulk Ketoprofen	Deny.
93–6	2921.49.40(PT)	Selegiline Hydrochloride	[1] Grant.
93–7	2933.39.37(PT)	Ethionamide	[1] Grant.
93–8	2937.92.20(PT)	Estradiol Benzoate	[1] Grant.
93–9	2937.92.80(PT)	Estradiol	[1] Grant.
93–10	2937.99.80(PT)	Trenbolone Acetate	[1] Grant.
93–11	8529.90.10[2]	Television Tuners	Grant.
93–12	9106.90.80(PT)	Timers	Grant.
		B. Petitions To Remove Products From GSP	
93–13	4007.00.00	Extruded Rubber Thread	Grant.
93–14	7308.90.90(PT)	Steel Grating	[3] Grant.
		C. Petitions To Waive Competitive Need Limits	
93–15	4203.21.40	Baseball Gloves	Grant.
93–16	7113.19.21	Gold Rope Chain Necklaces	Grant.
93–17	8402.20.00	Super-Heated Boilers	Grant.
93–18	8407.34.2080[4]	Passenger Car Engines	Grant.
93–19	8409.91.91(PT)	Aluminum Cylinder Heads	Grant.
93–20	8471.20.00	Notebook-Type Computers	Grant.
93–21	8471.20.00	Notebook-Type Computers	Grant.
93–22	8471.91.00	Personal Computers	Grant.
93–23	8471.91.00	Personal Computers	Grant.
93–24	8521.10.60	Video Cassette Recorders	Grant.
93–25	8525.20.20	Radiotelephone Transceivers	Grant.
93–26	8525.20.50	Cordless Handset Telephone	Grant.
93–27	8525.20.50	Cordless Handset Telephone	Grant.
93–28	8527.31.40	AM/FM Cassette Player	Grant.

ANNEX I—1993 GSP ANNUAL REVIEW—PRODUCT PETITIONS—Continued

Case No.	Hts No.	Product	Decision
93–29	8527.32.00	Clock Radios	Withdrawn.
93–30	8528.10.30	Combination TV/VCRs	Deny.
93–11	8529.90.10[2]	Television Tuners	Grant.

[1] Exclude India.
[2] This petition requested that television tuners be added to GSP and that Indonesia be granted a waiver. Grant to HTS subheadings 8529.90.01 and 8529.90.29.
[3] Remove for Venezuela only.
[4] Grant to HTS subheadings 8407.34.18 and 8407.34.48.

[FR Doc. 94–17107 Filed 7–13–94; 8:45 am]
BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 94–049]

Annual Certification of Cook Inlet Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: This document corrects the notice [CGD 94–049] published on Friday, June 24, 1994, (59 FR 32745) concerning the annual certification of Cook Inlet Regional Citizens' Advisory Council.

EFFECTIVE DATE: June 1, 1994 through May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mrs. Janice Jackson, Project Manager, Marine Environmental Protection Division, (G–MEP–3), (202) 267–0500, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION: In the June 24, 1994, edition of the **Federal Register**, the notice certifying the Cook Inlet Regional Citizens' Advisory Council inadvertently referred to the Prince William Sound Regional Citizens' Advisory Council in the last paragraph of the notice (59 FR 32745). The last paragraph of the notice is corrected to read as follows:

Recertification

By letter dated June 1, 1994, the Chief, Office of Marine Safety, Security and Environmental Protection certified that the Cook Inlet Regional Citizens' Advisory Council qualifies as an alternative voluntary advisory group under the provisions of 33 U.S.C. 2732(o). This recertification terminates on May 31, 1995.

Dated: July 6, 1994.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 94–17139 Filed 7–13–94; 8:45 am]
BILLING CODE 4910–14–M

Federal Aviation Administration

RTCA, Inc.; RTCA Special Committee 172; Future Air-Ground Communications in the VHF Aeronautical Band (118–137 MHz); Eleventh Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 172 meeting to be held August 2–5, starting at 9:30 a.m. (Tuesday only). The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Introductory remarks; (2) Accept agenda; (3) Review summary of 10th Plenary; (4) Full committee review of the mail ballot results on WG 2's VHF Data Radio Signal-in-Space MASPS Document; (5) Review of the WG 1's VHF Communications System Recommendations, FINAL DRAFT for the full committee acceptance of the document; (6) Address necessary issues prior to initiating WG 3's VHF Digital Radio MOPS program; (7) Other business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 6, 1994.

David W. Ford,

Designated Officer.

[FR Doc. 94–17022 Filed 7–13–94; 8:45 am]
BILLING CODE 4910–13–P

RTCA, Inc.; RCTA Special Committee 165; Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services

Eleventh Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 147 meeting to be held August 16–18, starting at 9:30 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Welcome and introductions; (2) Approval of the summary of the tenth meeting; (3) Chairman's remarks; (4) Working Group reports: (a) WG–1, Avionics Equipment Standards (b) WG–3, System/Service Performance Criteria (c) WG–5, AMS(R)S Voice; (5) Consider for approval: (a) DO–210, Change No. 2 (b) DO–215, Change No. 1; (6) Other business; (7) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 6, 1994

David W. Ford,

Designated Officer.

[FR Doc. 94–17023 Filed 7–13–94; 8:45 am]
BILLING CODE 4910–13–M

RTCA, Inc.; RTCA Special Committee 147; Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment; Meeting

Forty-Sixth Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix I), notice is hereby given for Special Committee 147 meeting to be held August 11–12, starting at 9:00 a.m. The meeting will be held at the RTCA Conference Room, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Review of meeting agenda; (3) Approval of the minutes of the Forty-Fifth meeting held on April 25–26, 1994; (4) Report of working group activities: (a) Operations Working Group (OWG) (b) Separation Assurance Task Force (c) Requirements Working Group (d) Enhancements Working Group; (5) Report of FAA TCAS Program Activities: (a) TCAS I (b) TCAS II (c) TCAS III (d) ATC Applications Activities; (6) Review of international activities/issues; (7) Review and update of verification and validation process; (8) Review of action items from last meeting; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 6, 1994.

David W. Ford,

Designated Officer.

[FR Doc. 94–17024 Filed 7–13–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Del Norte County, California.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability.

SUMMARY: FHWA, in cooperation with the California Department of Transportation, is issuing this notice to advise the public that an environmental impact statement has been prepared for a proposed highway project in Del Norte County, California.

FOR FURTHER INFORMATION CONTACT: John R. Schultz, Chief, District Operations-A, Federal Highway Administration, 980 Ninth Street, Suite 400, Sacramento, California 95814–2724, Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with California Department of Transportation, the National Park Service, the California Department of Parks and Recreation, and the United States Army Corps of Engineers has prepared an environmental impact statement (EIS) on a proposal to improve Route 101 in Del Norte County, California. The proposed improvement would involve the realignment of the existing Route 101 between post miles 20.3 and 22.3 approximately 8.5 to 5.3 kilometers (5.2–3.3 miles) south of Crescent City. Improvements are needed to the existing alignment due to the continuing high accident rate and to correct operational deficiencies. Alternatives under consideration include (1) taking no action (2) adding shoulders and a median to the existing alignment (3) minor realignment of the existing three-land conventional highway and widening to include shoulders and median (4) complete realignment and construction of a new three-lane conventional highway (5) complete realignment and construction of a new four-lane expressway. Potential unavoidable adverse impacts include displacement of state and national parkland, old growth trees including redwoods, sensitive wildlife species including the listed federal threatened and state endangered marbled murrelet, and soil erosion. As part of the public involvement process for this project, a public hearing has been planned in Crescent City on August 30, 1994. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on July 6, 1994.

G.P. Bill Wong,

Senior Transportation Engineer.

[FR Doc. 94–17111 Filed 7–13–94; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Aurora, CO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a combined environmental impact/Section 4(f) evaluation will be prepared for a proposed project in Aurora, Colorado.

FOR FURTHER INFORMATION CONTACT: Ronald A. Speral, Design/Environmental Coordinator, FHWA Colorado Division; 555 Zang Street, Room 250; Lakewood Colorado 80228; Telephone (303) 969–6730, extension 368.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Colorado Department of Transportation (CDOT), the U.S. Army Corps Engineers, and the Regional Transportation District (RTD), will prepare draft and final environmental impact statements and draft and final Section 4(f) evaluations (for use of parkland) on a proposal to improve SH 83 (Parker Road) in Aurora, Colorado. The City of Aurora and the Colorado Division of Parks and Recreation will be commenting agencies. The proposed improvement would involve upgrading the I–225/Parker Road interchange, widening Parker Road along the ¾ mile segment between Peoria Street and Hampden Avenue, and constructing new grade separations to replace the Parker Road Intersections at Vaughn Way and at Hampden Avenue. These improvements to Parker Road are considered necessary to relieve significant existing traffic congestion and safety problems.

The alternatives to be considered in the EIS/4(f) evaluation include the following:

(1) The No Build Alternative (taking no action)

(2) Congestion Management Alternative. This alternative would consist of the implementation of several traditional and/or nontraditional congestion management strategies. The potential operational benefits of any combination of strategies would be considered. Only those combined strategies that are capable of meeting the project's mobility objectives (including a minimum peak hour Level of Service

"E" for general traffic) will be analyzed for their environmental impacts.

(3) Alternative 3 (as referenced in the Citizens' Advisory Committee Final Report and Recommendation to Aurora City Council, November 1992), described as follows:

At I–225, a two-lane flyover ramp (Ramp G) would elevate from the right side of Parker Road and cross over it south of the existing interchange (toward Cherry Creek State Park). The ramp would cross over I–225 near RTD's Nine Mile park-n-Ride.

An on-ramp from the intersection of Parker Road and Peoria Street to southbound I–225 would replace the existing on-ramp between the park-n-Ride and I–225.

A loop ramp around the park-n-Ride would replace the signal on Parker Road that now serves the southbound I–225 to southeast—bound Parker Road movement.

All other existing ramps would remain at grade, but would be relocated slightly to accommodate widening of Parker Road. The northbound I–225 off-ramp to northwest-bound Parker Road would provide for triple (one new) left turn lanes.

South of I–225, Vaughn Way would be grade separated to pass beneath Parker Road. Two way access roads, providing right-in, right-out access to and from Parker Road, would replace the existing signalized intersection.

At Hampden Avenue, a half (split) urban interchange would replace the existing intersection.

All of the above improvements would eliminate three existing signals for through traffic movements along the ¾ mile segment of Parker Road.

(4) Alternative 8 (as referenced in the November 1992 Report), would be identical to Alternative 3, with the exception of the alignment of Ramp G. The two-lane flyover ramp would cross over I–225 near the north end of the I–225 structures over Parker Road.

All build alternatives will include pedestrian and bicycle facility improvements. Operationally feasible congestion management strategies will be investigated in conjunction with the build alternatives and incorporated as appropriate.

Seventeen public meetings have been held on the project since March 31, 1992. An agency scoping meeting was held by CDOT with FHWA, the U.S. Army Corps of Engineers, the Colorado Division of Parks and Recreation, RTD, and the City of Aurora on April 20, 1994. Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies. "Open house" and/or informal meetings for the general public will be held during development of the draft EIS. A public hearing will be conducted during the public comment period for the draft EIS/4(f) evaluation. Public notice will be given of the time and place of future public meetings and for the hearing. The draft EIS/4(f) evaluation will be available for public and agency review during a 45-day comment period.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the draft EIS/4(f) evaluation should be directed to the FHWA at the address provided above.

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

Issued on: July 6, 1994.

Ronald A. Speral,

Design/Environmental Coordinator, Lakewood, Colorado.

[FR Doc. 94–17112 Filed 7–13–94; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

[Docket S–908]

Lykes Bros. Steamship Co., Ltd.; Application for Authorization to Increase Participation in a Reciprocal Space Charter and Coordinated Sailing Agreement With a Foreign Carrier

By application of June 28, 1994, Lykes Bros. Steamship Co., Inc. (Lykes) requests the Maritime Administration's (MARAD) permission under Section 804 of the Merchant Marine Act, 1936, as amended (Act) to increase the number of vessels from three to five operated by Deppe Linie GmbH ("Deppe") under the cooperative Working Agreement, Space Charter Agreement and Sailing Agreement between Lykes and Deppe (FMC No. 232–011253).

On December 20, 1989, MARAD granted Lykes a waiver under Section 804 under special circumstances and for good cause shown to participate in the reciprocal space charter and coordinated sailing agreement with Deppe for the trade between the U.S. Gulf and East Coast and North Europe until the expiration of Lykes' ODSA Contract, MA/MSB–451. MARAD retained the right to approve any increase in participating vessels by Deppe beyond a total of three.

Deppe intends to operate additional vessels in the trade. Accordingly, Lykes now seeks permission to participate in a space charter with Deppe for up to five vessels under the agreement. Lykes notes that no other change is sought in the Section 804 approval. No change is sought in the U.S.-flag vessels covered by the agreement or the geographic scope of the agreement.

Lykes' believes that its participation in a space charter with respect to an additional two Deppe vessels is warranted by special circumstances and good cause. According to Lykes, the agreement has succeeded to date because it permitted Lykes and Deppe to rationalize and improve service to their customers in a markedly overtonnaged trade. Now Lykes and Deppe both need the flexibility to expand service incrementally to meet customer demands.

Additional of two vessels under this agreement would greatly assist Lykes. Lykes maintains that no adverse impact from the addition of such vessels could occur to other U.S. vessel operators. First, this request would amount to a very modest increase in the ships now available under the agreement and only a minuscule increase in the capacity in the trade. Second, much of the capacity utilized in this service is devoted to the U.S. Gulf/North trade and the trades between Europe/Mexico and the U.S./Mexico where there is no competing U.S. carrier.

Section 804(a) of the Act provides that "it shall be unlawful for any contractor receiving operating-differential subsidy under Title VI * * * to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined by the Secretary of Transportation to be essential as provided in section 211 of this Act." Section 804(b) states that this provision may be waived by the Secretary under special circumstances and for good cause shown.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on July 27, 1994. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be

amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

By Order of the Maritime Administrator.

Dated: July 11, 1994.

Joel C. Richard,

Acting Secretary, Maritime Administration

[FR Doc. 94–17106 Filed 7–13–94; 8:45 am]

BILLING CODE 4910–81–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 134
Thursday, July 14, 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).

AFRICAN DEVELOPMENT FOUNDATION

BOARD OF DIRECTORS MEETING

TIME: 10:00 a.m.–1:00 p.m.

PLACE: ADF Headquarters.

DATE: Tuesday, 19 July 1994.

STATUS: Open.

Agenda

10:00 President's Report
11:30 Lunch
12:30 Executive Session

If you have any questions or comments, please direct them to Ms. Janis McCollim, Executive Assistant to the President, who can be reached at (202) 673–3916.

Gregory Robeson Smith,

President.

[FR Doc. 94–17252 Filed 7–12–94; 2:33 pm]

BILLING CODE 6116–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:33 p.m. on Monday, July 11, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Recommendation regarding an administrative enforcement proceeding.

Matters relating to the probable failure of a certain insured depository institution.

Matters relating to the Corporation's corporate, supervisory, and resolution activities.

Application of Carrollton Federal Bank, F.S.B., Carrollton, Georgia, a proposed new federally chartered stock savings bank, for Federal deposit insurance.

Recommendation regarding the liquidation of depository institutions' assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re:
Various Failed Depository Institutions Nationwide
Case No. 507–09290–94–BOD

In calling the meeting, the Board 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 its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17 Street, NW., Washington, DC.

Dated: July 12, 1994.

Federal Deposit Insurance Corporation.

E. Elizabeth Hayes,

Acting Assistant Executive Secretary.

[FR Doc. 94–17303 Filed 7–12–94; 2:35 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 94–16596.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 14, 1994, 10:00 a.m. Meeting Open to the Public.

The following item was Added to the Agenda:

Revised Directive No. 3, Debt Settlement Procedures.

DATE AND TIME: Tuesday, July 19, 1994 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, July 21, 1994 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Advisory Opinion 1994–18: Edward J. Sack on behalf of the International Council of Shopping Centers (ICSC)
Advisory Opinion 1994–19: Andrew W. Cohen for the American Society of Anesthesiologists, Inc.
Advisory Opinion 1994–21: William M. Hermelin of American Pharmaceutical Association PAC
Regulations:
MCFL Rulemaking: Summary of Comments and Draft Final Rules (continued from meeting of July 14, 1994)
Personnal Use of Campaign Funds; Request for Additional Comments (tentative)
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone: (202) 219–4155.

[FR Doc. 94–17297 Filed 7–12–94; 2:34 pm]

BILLING CODE 6715–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, July 20, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 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: July 12, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–17314 Filed 07–12–94; 3:59 pm]

BILLING CODE 6210–01–P

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 10–94
Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations

(45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time	Subject Matter
Tues., July 26, 1994 at:	Oral Hearings on objections to Proposed Decisions issued on claims against Iran:
10:00 a.m. ...	IR–2672—Mary T. Reza.
	IR–2725—Arianne M. Reza.
	IR–3089—David M. Reza.
	IR–3090—Pary L. Reza.
	IR–3091—Sharieh M. Lira.
	IR–3092—Michael J. Reza.
	IR–3093—Nora C. Girshick.
11:00 a.m. ...	IR–1833—Albert Monasebian.
	IR–1834—Shahnaz M. Goldman.
	IR–1835—Paridokht Melamed.
	IR–2196—Mahdikht Monasebian.
12:00 noon ..	IR–3113—Linda Z. Balint.
2:00 p.m	IR–0964—Walter J. Johnson.
3:00 p.m	IR–0980—Richard J. Hallwood.
3:30 p.m	IR–3043—Carolina Chandlers Corp.
4:00 p.m	IR–0386—Intern'l School Supply.
Wed., July 27, 1994 at 10:30 a.m.	Consideration of Proposed Decisions on claims against Iran.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC on July 11, 1994.

Judith H. Lock,

Administrative Officer.

[FR Doc. 94–17164 Filed 7–11–94; 5:03 pm]

BILLING CODE 4410–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 18, 1994.

A closed meeting will be held on Monday, July 18, 1994, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Monday, July 18, 1994, at 10:00 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Monica Parry (202) 942–0600.

Dated: July 11, 1994.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–17233 Filed 7–12–94; 1:05 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 59, No. 134
Thursday, July 14, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 299

[INS No. 1638-93]
RIN 1115-AD58

Immigration and Nationality Forms

Correction

In rule document 94-11955 beginning on page 25555 in the issue of Tuesday, May 17, 1994, make the following correction:

§ 299.1 [Corrected]

1. On page 25556, in § 299.1, in the table, in the first column, in the second line, "CDC 4.22-1" should read "CDC 4.222-1".

§ 299.5 [Corrected]

2. On page 25559, in § 299.5, in the table, in the 2d column, in the 16th line, "Detailed" should read "Detained".

3. On page 25560, in § 299.5, in the table, in the 1st column, in the 16th line, "1-660A" should read "1-600A".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-34254; File No. SR-NASD-94-37]

Self-Regulatory Organizations; Notice and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Initial Quotations of Initial Public Offerings

Correction

In notice document 94-15933 appearing on page 33808, in the issue of Thursday, June 30, 1994, in the first column, the file number should read as set forth above.

BILLING CODE 1505-01-D

federal register

Thursday
July 14, 1994

Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Competitive Discretionary Assistance Program and Application Kit; Final Comprehensive Plan and Notice of Availability for Fiscal Year 1994; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Final Comprehensive Plan for Fiscal Year 1994 and Notification of the Availability of the FY 1994 Competitive Discretionary Assistance Program and the Application Kit

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of Final Program Plan for Fiscal Year 1994 and Notice of the Availability of the Competitive Discretionary Assistance Programs and Juvenile Justice Application Kit for Fiscal Year 1994.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is publishing this Notice of its Final Comprehensive Plan for Fiscal Year 1994 and Notice of the Availability of the Competitive Discretionary Assistance Programs and Juvenile Justice Application Kit for Fiscal Year 1994 (a separate publication of the Competitive Discretionary Assistance Programs and the Application Kit is available in one document from the Juvenile Justice Clearinghouse).

The OJJDP Application Kit contains the discretionary program announcements, general application and administrative requirements, an application form (Standard Form 424), the OJJDP Peer Review Guideline, OJJDP Competition and Peer Review Procedures, and other supplemental information relevant to the application process. To order an OJJDP Application Kit please call the Juvenile Justice Clearinghouse, toll-free, 24 hours a day, (800) 638–8736.

DATES: See Application Kit for Due Dates.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, room 742, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Program inquiries are to be addressed to the attention of the OJJDP staff contact person identified in the application kit's program announcement. For general information, contact Marilyn Silver, Management Analyst, Information Dissemination Unit, (202) 307–0751. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: In accordance with section 204(b)(5)(A) of Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP Act), as amended, 42 U.S.C. 5614(b)(5)(A), the Acting Administrator of OJJDP is publishing a Final Comprehensive Plan describing the Juvenile Justice and Delinquency Prevention Programs which OJJDP intends to fund during Fiscal Year 1994. This Final Plan includes activities authorized in parts C and D of title II of the JJDP Act (42 U.S.C. 5651–5665b).

The 1984 Amendments to the JJDP Act established Title IV, the Missing Children's Assistance Act. In accordance with Section 406(a) of Title IV of the JJDP Act, 42 U.S.C. 5776(a), OJJDP announced in this Final Program Plan priorities for grants and contracts under section 405, 42 U.S.C. 5775, of the Missing Children's Assistance Act.

Application Requirements

See Application Kit.

Eligibility Requirements

Applications are invited from eligible public and private agencies, organizations, educational institutions, individuals, or combinations thereof. Eligibility differs from program to program. Please consult application kit for individual program announcements for specific eligibility requirements. Where eligible for an assistance award, private for profit organizations must agree to waive any profit or fee. Joint applications by two or more eligible applicants are welcome, as long as one organization is designated as the primary applicant and the other(s) as co-applicant(s). Applicants must demonstrate that they have experience in the design and implementation of the type of program or program activity for which they are an applicant.

Selection Criteria

All applications will be evaluated and rated by a peer review panel according to announced selection criteria. Peer review will be conducted in accordance with the OJJDP Competition and Peer Review Policy, 28 CFR part 34, subpart B. General selection criteria for each competitive program will determine applicants' responsiveness to minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues related to project implementation. Each competitive program announcement may also indicate additional program-specific review criteria and/or changes in points assigned to criteria used in the peer review for that particular program.

Peer reviews will use the following criteria to rate applications unless the program announcement contains separate, program-specific selection criteria:

1. Statement of the Problem. (20 points) The applicant includes a clear, concise statement of the problem addressed in this program.

2. Definition of Objectives. (20 points) The goals and objectives are clearly defined and the objectives are clear, measurable, and attainable.

3. Project Design. (20 points) The project design is sound and constitutes an effective approach to meet the goals and objectives of this program. The design provides a detailed implementation plan with a timeline which indicates significant milestones in the project, due dates for products, and the nature of the products to be submitted. The design contains program elements directly linked to the achievement of the project.

4. Management Structure. (15 points) The project's management structure and staffing is adequate to successfully implement and complete the project. The management structure for the project is consistent with the project goals and tasks described in the application. Application explains how the management structure and staffing assignments are consistent with the needs of the program.

5. Organizational Capability. (15 points) The applicant organization's potential to conduct the project successfully must be documented. Applicant demonstrates that staff members have sufficient substantive expertise and technical experience. The applications will be judged on the appropriateness of the position descriptions, required qualifications, and staff selection criteria.

6. Reasonableness of Costs. (10 points) Budgeted costs are reasonable, allowable, and cost effective for the activities proposed, and are directly related to the achievement of the program objectives. All costs are justified in a budget narrative that explains how costs are determined.

Introduction

The youth of America are our Nation's future. However, along with increasing adult violence, the serious and violent crime rate among juveniles has increased sharply in the past few years. At the same time, a small portion of juvenile offenders account for the bulk of all serious and violent crime. Simultaneously, the number of juveniles taken into custody has increased, as has the number of juveniles waived or transferred to the criminal justice system. Admissions to juvenile facilities are at their highest levels ever, and an increasing percentage of these facilities are operating over capacity. Unfortunately, the already strained juvenile justice system does not have adequate fiscal and programmatic

resources to identify juveniles at risk of becoming serious, violent, or chronic delinquents and to provide appropriate prevention services or intervene effectively with those juveniles who are already serious, violent, or chronic delinquents.

A Comprehensive Strategy

To reverse national trends in juvenile violence, juvenile victimization and family disintegration will require both a change in national priorities and an unprecedented commitment by public and private agencies, institutions, organizations, and individuals. OJJDP has developed a comprehensive strategy to address serious, violent and chronic delinquency. The strategy is based on OJJDP's review of statistics, research and evaluation and focuses on promising approaches in family strengthening, support for core institutions, delinquency prevention, intervention, and treatment. Its implementation at the State and local levels will require all sectors of the community to participate in determining local needs and in formulating and funding programs to meet those needs in order to prevent and treat delinquency. [A Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders, OJJDP (1993).]

This year, OJJDP will fund a variety of programs and projects to implement the Comprehensive Strategy and foster community planning efforts. OJJDP will work with a number of jurisdictions to test mechanisms designed to assist communities to plan and implement programs that address youth violence.

Communities engaged in comprehensive planning to address the issue of serious, violent and chronic juvenile offenders will be supported by OJJDP funding, technical assistance, information, and training resources. As part of the current program development work on OJJDP's Comprehensive Strategy, communities will be furnished a "how to" manual, providing a blueprint for assessing youth violence problems and resources. An inventory of promising and successful program models to help address the identified problems will also be provided to interested jurisdictions. These resources will be made available to cities and communities, including Weed and Seed jurisdictions, to assist in the planning and implementation of coordinated efforts to deal with youth violence problems. Program development work on OJJDP's Comprehensive Strategy will also support the Attorney General's national agenda for children by producing an early intervention program strategy; focused on families and beginning with the prenatal period. Program models included in the early intervention strategy will seek to preserve and strengthen families that need support in providing healthy, nurturing environments for their children's social development. Educare programs that provide both child care help for parents and education readiness opportunities will be featured.

OJJDP's Comprehensive Strategy is based on five key principles for preventing and reducing chronic, serious and violent juvenile delinquency. Each of these principles has as its aim either reducing or identifying and controlling the small percentage of juvenile offenders who are serious, violent and chronic offenders. These are stated below:

- Strengthen families in their role of providing guidance, discipline and strong values as their children's first teachers.
- Support core social institutions, including schools, religious institutions, and other local community based organizations, to alleviate risk factors for delinquency and help children develop their full potential.
- Promote prevention strategies that reduce the impact of negative risk factors and enhance protective factors.
- Intervene immediately when delinquent behavior first occurs.
- Establish a broad range of graduated sanctions that provides both accountability and a continuum of services to respond appropriately to the needs of each delinquent offender.

OJJDP is also assisting Denver, Atlanta, Omaha and other Nebraska jurisdictions, and the District of Columbia, under a Department initiative, "Pulling America's Communities Together" (PACT) Program, to address violence issues in these jurisdictions, in designing and implementing short-term measures to reduce the incidence of violence on our streets, in our schools, and in our homes. These measures will be integrated with long-term strategies such as those described above to address the root causes of serious and violent crime and delinquency.

OJJDP is also participating in a collaborative effort with the Bureau of Justice Assistance in the "Comprehensive Communities Program." Under this program, cities or counties faced with high rates of drug-related crime and violence will develop a comprehensive strategy for crime- and drug-control which requires law enforcement and other governmental agencies to work in partnership with the community to address these problems in terms of the environment which fosters them. Each strategy must include a jurisdiction-wide commitment to community policing, coordination among public and private agencies (including, social services, public health, etc.), and efforts that encourage citizens to take an active role in problem solving.

Overview

OJJDP was established by the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93–415), as amended, to provide a comprehensive, coordinated approach to prevent and control juvenile crime and improve the juvenile justice system. OJJDP administers a State Formula Grants Program in 57 States and territories, funds over 100 projects through its Special Emphasis and National Institute for Juvenile Justice and Delinquency Prevention Discretionary Grant Programs, and is charged with coordinating all Federal activities related to juvenile justice and delinquency.

In addition, OJJDP serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention, coordinates the Concentration of Federal Efforts Program, and administers the Title IV Missing and Exploited Children's Program, the Title V Prevention Incentive Grants Program, and programs under the Victims of Child Abuse Act of 1990, as amended (42 U.S.C. 13001 et seq.).

1992 JJDP Act Amendments

The Juvenile Justice and Delinquency Prevention Amendments of 1992 expanded the role of OJJDP in Federal efforts to prevent and treat juvenile delinquency and improve the juvenile justice system by including three new priorities: strengthening the families of delinquents; improving State and local administration of justice and services to juveniles; and assisting States and local communities in preventing youth from entering the justice system. The Amendments encourage parental involvement in treatment and services for juveniles, coordination of services and interagency cooperation. Seven new studies are mandated. The Comptroller General is conducting five of these studies: (1) juveniles waived, certified, or transferred to adult court; (2) admissions of juveniles with behavior disorders to private psychiatric hospitals; (3) gender bias in State juvenile justice systems; (4) Native American pass-through under the Formula Grants Program; and (5) access to counsel in juvenile court

proceedings. OJJDP is conducting the remaining two: (1) the incidence, nature, and causes of violence committed by or against juveniles in urban and rural areas; and (2) the extent and characteristics of juvenile hate crimes.

The JJDP Act Amendments of 1992 also authorize several new grant programs to be administered by OJJDP:

- Part E, State Challenge Activities, authorizes grants to States participating in the Part B Formula Grants Program that provide up to 10 percent of a State's Formula Grants Program allocation for each of 10 challenge activities in which the State participates.
- Part F, Treatment for Juvenile Offenders Who are Victims of Child Abuse or Neglect, authorizes grants to public and nonprofit private organizations for treatment of juvenile offenders who are victims of child abuse or neglect, transitional services, and related research.
- Part G, Mentoring, authorizes three-year grants to or in partnership with local education agencies for mentoring programs designed to link at-risk youth with responsible adults to discourage youth involvement in criminal and violent activity.
- Part H, Boot Camps, authorizes grants to establish up to ten military-style boot camps for delinquent juveniles.
- Title V, Incentive Grants for Local Delinquency Prevention Programs, authorizes grants to local governments for a broad range of delinquency prevention activities targeting youth who have had contact with, or are likely to have contact with, the juvenile justice system.

In FY 1994, two of the five new programs listed above received an appropriation—Part G Mentoring ($4 million) and Title V Incentive Grants ($13 million). These programs are not included in this plan, nor are programs authorized and funded under the Victims of Child Abuse Act of 1990, as amended.

Fiscal Year 1994 Program Planning Activities

The OJJDP program planning process for Fiscal Year 1994 is coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and the four other Program Bureau components of the OJP. The program planning process involves the following steps:

- Internal review of existing programs by OJJDP staff;
- Internal review of proposed programs by OJP Bureaus and selected Department of Justice components;
- Review of information and data from OJJDP grantees and contractors;
- Review of information contained in State comprehensive plans;
- Review of comments made by youth services providers, juvenile justice practitioners and researchers;
- Consideration of suggestions made by juvenile justice policy makers concerning State and local needs; and
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for continuation funding in Fiscal Year 1994, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives.

Continuation funding consideration for an additional project period for previously funded discretionary grant programs will be based upon several factors, including:

- The extent to which the project responds to the applicable requirements of the JJDP Act;
- Responsiveness to OJJDP and Department of Justice Fiscal Year 1994 program priorities;
- Compliance with performance requirements of prior grant years;
- Compliance with fiscal and regulatory requirements;
- Compliance with any special conditions of award; and
- Availability of funds (i.e. based on program priority determination).

In accordance with 42 U.S.C. 5665a, Section 262 (d)(1)(B), the competitive process described in subparagraph (A) of such section shall not be required if the Administrator makes a written determination waiving the competitive process:

(1) with respect to programs to be carried out in areas to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; or

(2) with respect to a particular program described in part C that is uniquely qualified.

In implementing the Fiscal Year 1994 Program Plan, OJJDP will continue the process of developing, testing and demonstrating the graduated sanctions concept throughout its programs, while also maintaining an appropriate emphasis on Weed and Seed Sites.

- For both new competitive programs to be funded at the State or local level and new programs that provide funds to national organizations to provide services at the State and local level. Applicants are encouraged to provide services in Weed and Seed Sites eligible for such services, as appropriate.
- For continuation national project recipients, OJJDP has already focused a variety of program resources on Weed and Seed Sites and will continue an appropriate emphasis throughout Fiscal Year 1994.
- For other continuation awards OJJDP, will negotiate with grantees and task contractors to identify and ensure the provision of appropriate technical assistance, training, information and direct program services to Weed and Seed Sites, other jurisdictions adopting the graduated sanctions program approach, and other eligible service recipients.

OJJDP seeks to focus its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and to cultivate partnerships with State and local organizations. To that end, OJJDP has set three goals that constitute the major elements of a sound policy for juvenile justice and delinquency prevention:

- To promote delinquency prevention efforts,
- To foster the use of community-based alternatives to the traditional juvenile justice system, and
- To improve the juvenile justice system.

Delinquency Prevention

The first goal of OJJDP is to identify and promote programs which prevent or preclude minor, serious, and violent delinquency from occurring (and which prevent the commission of status offenses). A sound policy for juvenile delinquency prevention strives to strengthen the most powerful contributing factor to good behavior: a productive place for young people in a law-abiding society. Preventive measures can operate on a large scale, providing gains in youth development while reducing youthful misbehavior. OJJDP programs encourage a risk-focused approach, based on public health and social development models.

Community-Based Alternatives

OJJDP's second goal is to identify and promote community-based alternatives for each stage of a child's contact with the juvenile justice system, emphasizing options which are least restrictive and promote or preserve positive ties with the child's family, school and community. Communities cannot afford to place responsibility for juvenile crime entirely on the juvenile justice system. A sound policy for combatting juvenile crime makes maximum use of a community's less formal, often less expensive, and less alienating responses to youthful misbehavior.

Improvement of the Juvenile Justice System

The third goal of OJJDP is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources. The limited resources of the juvenile justice system must be reserved for the most difficult and intractable problems of juvenile crime. A sound policy concentrates the more formal, expensive, and restrictive options of the juvenile justice system in two areas:

- Youth behavior which is most abhorrent and least amenable to preventive measures and community responses; and
- Problems of youths and their families which exceed community resources and require more stringent legal resolution.

Fiscal Year 1994 Programs

The following are brief summaries of each of the proposed new and continuation programs for Fiscal Year 1994. The specific program priorities proposed within each category are subject to change with regard to their priority status, estimated amount, sites for implementation, and other descriptive data and information based on the review and comment process, grantee performance, application quality, fund availability, and other factors. OJJDP has a limited amount of appropriations available for new programs in Fiscal Year 1994. New programs are therefore being proposed with funding levels subject to change.

A number of programs contained in this document have been identified for funding by Congress with regard to the grantee(s), the amount of funds, or both. An asterisk (*) indicates those programs. In addition, the 1994 Appropriations Act Conference Report for State, Justice, Commerce, and Related Agencies identified 10 programs for the Office of Juvenile Justice and Delinquency Prevention to examine and provide grants if warranted. Concept papers were requested from these 10 programs. As a result, a number of proposed planned programs had to be removed from the program plan. These programs will receive careful considerations for funding in FY 1995.

Fiscal Year 1994 Program Listing

Delinquency Prevention

New Programs

Interagency Demonstration on Youth, Firearms and Violence	$150,000
Mental Health in the Juvenile Justice System	100,000
Law-Related Education in Juvenile Justice Settings*	440,000
Innovative Approaches in Law-Related Education*	260,000
National Student/Parent Mock Election*	100,000
"Just Say No" International*	250,000
Jackie Robinson Center (JRC)*	250,000
Parents Anonymous Inc.*	250,000
Youth Crime Watch*	50,000

Delinquency Prevention

Continuation Programs

Law-Related Education (LRE)*	2,700,000
The Congress of National Black Churches: National Anti-Drug Abuse Programs*	200,000
Federal Interagency Partnership, Phase I (CIS)	200,000
Targeted Outreach with a Gang Prevention and Intervention Component (Boys and Girls Clubs)	400,000
Satellite Prep School Program and Early Elementary School for Privatized Public Housing	600,000
Teens, Crime and Community: Teens in Action in the '90s*	1,000,000
Race Against Drugs	115,000

Missing Children

Prevention, Early Intervention, and Mediation Project for Missing and Exploited Children	75,000
Missing and Exploited Children Prevention and Services	75,000
Paul and Lisa Prevention and Intervention Efforts: Expansion and Improvement of Non-Profit Organization Projects	75,000
Project Niño Seguro Services—Addressing Missing and Exploited Children	45,258

Community-Based Alternatives

New Programs

Program to Promote Alternative Programs for Juvenile Female Offenders	200,000
Serious, Violent, and Chronic Juvenile Offender Treatment Program	2,000,000
Field-Initiated Research Program	250,000
Robeson County, North Carolina*	337,075
Lackawanna County, Pennsylvania*	50,000
Portland Summer Diversion Project*	100,000
Douglas County, Nebraska*	67,055
PACE*	150,000

Community-Based Alternatives

Continuation Programs

Permanent Families for Abused and Neglected Children*	225,000

National Network of Children's Advocacy Centers*	500,000
Professional Development for Youth Workers	200,000
School Safety Center	250,000
Juvenile Restitution	250,000
Insular Area Support*	403,000
OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center	650,000
Native American Alternative Community-Based Program	540,000
Missing Children	
Community Action for the Prevention of Missing and Exploited Children	125,000
Provide Services to Recovered Missing Children and Their Families	30,000
Improvement of the Juvenile Justice System	
New Programs	
Pulling America's Communities Together: Program Development	250,000
Violence Studies*	1,000,000
Child Centered Community-Oriented Policing	300,000
What Works: Programs for Juvenile Female Offenders	50,000
Training for Line Staff in Juvenile Corrections and Detention	250,000
Comprehensive Gang Program (Part D)	2,000,000
Marketing the Conditions of Confinement Study	100,000
Conditions of Confinement Follow-Up—Performance Standards	250,000
Training and Technical Support for State and Local Jurisdictional Teams to Focus on Juvenile Corrections and Detention Overcrowding	100,000
Statistics Improvement	175,000
Intensive Community-Based Aftercare Demonstration, Technical Assistance, and Evaluation Program	750,000
National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center	300,000
Telecommunications Assistance	200,000
Interventions to Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah M. Wysinger Memorial Program)	600,000
Non-Violent Dispute Resolution	250,000
Models of Effective Court Based Service Delivery to Children and Their Families	250,000
Delinquency Prevention Training and Technical Assistance	569,076
Seeds of Success—Log Cabin Honor Ranch*	150,000
Improvement of the Juvenile Justice System	
Continuation Programs	
Children in Custody	300,000
Juvenile Justice Clearinghouse	1,016,740
Coalition for Juvenile Justice*	650,000
Juvenile Justice Data Resources	25,000
Juvenile Justice Statistics and Systems Development	275,000
Juveniles Taken Into Custody (JTIC): Interagency Agreement	200,000
National Juvenile Court Data Archive*	610,915
Contract for the Evaluation of OJJDP Programs	652,341
Children at Risk	350,000
Delay in the Imposition of Sanctions	100,000
Violence Study—Causes and Correlates*	300,000
Training and Technical Assistance for Juvenile Detention and Corrections (The James E. Gould Memorial Program)	225,000
Training for Juvenile Corrections Staff	475,000
Improvement in Correctional Education for Juvenile Offenders	199,963
Improving Literacy Skills of Institutionalized Juvenile Delinquents	250,000
Juvenile Court Training*	1,100,270
Technical Assistance to the Juvenile Courts*	389,943
Due Process Advocacy Program Development	250,000
Training in Cultural Differences for Law Enforcement/Juvenile Justice Officials	150,000
Bootcamps for Juvenile Offenders: Constructive Intervention and Early Support	550,000
Comprehensive Gang Initiative	500,000
Missing Children	
National Center for Missing and Exploited Children/Resource	3,600,000
Training and Technical Assistance for Nonprofit Missing and Exploited Children's Organizations	250,000
Model Treatment and Services Approaches for Mental Health Professionals Working with Families of Missing Children	200,000
Obstacles to Recovery and Return of Parentally Abducted Children: Training, Technical Assistance	250,000
Development and Expansion of the Child Find Mediation Program to Locate Missing and Exploited Children and Prevent Child Abduction	75,000
ECHO Program Expansion Assistance	19,538

Missing and Exploited Children Comprehensive Action Plan (M/CAP)	999,905
Funding Support for Private Non-profit Organizations Involved with Missing and Exploited Children	70,500
Investigative Case Management of Missing Children Homicides	150,000
Missing Children Data Archive	50,000
Remember They're Children: Using Video to Train Law Enforcement Personnel	200,000
National Alzheimer's Patient Alert Program: Safe Return*	650,000

Delinquency Prevention

New Programs

Congress has appropriated $13 million in Fiscal Year 1994, under Title V of the JJDP Act, for a new delinquency prevention program. This program also supports OJJDP's Comprehensive Strategy by reducing the onset of delinquency among youths who might otherwise have begun on a pathway to serious, violent and chronic delinquency. Moreover, "community planning teams" will be established under this program to conduct risk and resource assessments in order to determine what delinquency prevention programs are needed for a particular jurisdiction. In communities that are planning system responses for serious, violent and chronic offenders, the work of these planning teams will be coordinated with other system planning.

The following are some key features of this program:

- Some 5,000 community leaders will be trained in the risk and resource assessment process over the next few months.
- Communities will then submit applications for Federal funding for local prevention programs that the community leaders and planning teams have determined are needed to prevent delinquency, based on the community's determination of its needs and priorities. Communities must provide a matching contribution and should establish partnerships with the private sector, especially corporations and foundations.
- These prevention programs will include a number of multi-disciplinary program approaches incorporated in the Attorney General's national agenda for children:

—job training and employment opportunities,

—drug abuse education,

—after school programs, and

—other programs cutting across disciplines and linking schools and social service agencies.

Other delinquency prevention programs are set forth below for which communities engaging in comprehensive community planning can apply directly to OJJDP for funding.

Interagency Demonstration on Youth, Firearms and Violence, $150,000

The unacceptably high levels of violent crimes, injuries, and deaths in the United States among our Nation's youth are creating a generation of victims and undermining the economic and communal fabric of society. Firearms are a central part of the problem—for young people 10 to 34 years of age, firearms are the second leading cause of death. In 1990, more teenagers died from firearm-related injuries than from all natural diseases combined.

The Office of Juvenile Justice and Delinquency Prevention in partnership with the National Institute of Justice, and with the Centers for Disease Control, seeks to develop a strategy for preventing and controlling youth violence. From this partnership has come a solicitation requesting proposals to design and implement a demonstration program utilizing a problem-solving approach to understand, prevent and control youth violence. The proposed demonstration project would involve a partnership among the juvenile justice system, a public health agency, and a law enforcement or criminal justice agency within a target community. The funding for this initiative is up to $500,000, including a $150,000 contribution from OJJDP. For a copy of this separate solicitation, Interagency Demonstration on Youth, Firearms, and Violence, call the National Criminal Justice Reference Service, 1–800–851–3420, Box 6000, Rockville, MD 20850.

Mental Health in the Juvenile Justice System, $100,000

This program would implement a two-pronged strategy to address the mental health and juvenile justice systems' lack of coordinated and adequate mental health treatment for America's at-risk and delinquent youth. Juveniles specifically targeted under the two phased strategy proposed are those with mental health problems and impairments, including learning disabilities, who are at risk of becoming status or delinquent offenders, and alleged and adjudicated status offenders and delinquents with undiagnosed or untreated mental health problems, including those in residential care or in juvenile detention and correctional facilities.

The first phase would be funded in Fiscal Year 1994 to develop and implement a two-day conference for up to 200 attendees to address the topics of at-risk juveniles and juveniles with mental health problems or learning disabilities in the juvenile justice system. The purpose of the conference would be to bring together individuals from multiple disciplines to discuss potential solutions to the failure to address the mental health needs of at-risk juveniles and those in our juvenile justice system in a coordinated and systematic manner. The conference would recommend actions that community organizations and local, State, and Federal agencies need to take to address this issue. The conference would be developed in cooperation with the Centers for Mental Health Services and Maternal and Child Health of the U.S. Department of Health and Human Services, the Office of Special Education Programs, U.S. Department of Education and components of other federal agencies, as appropriate.

The second phase, to be considered for funding in Fiscal Year 1995, would establish three to six demonstration programs at the State and local levels to plan comprehensive, coordinated and collaborative approaches to improving mental health services for juveniles.

Law-Related Education in Juvenile Justice Settings, $440,000*

This Law Related Education (LRE) Program (and the Innovative Approaches program that follows) is established pursuant to Section 299(e) of the JJDP Act which provides that 20 percent of the funds appropriated for the national law-related education program under Section 261(a)(7) "shall be reserved each fiscal year for not less than two programs that did not receive funding prior to October 1, 1992."

In 1990, OJJDP began experimenting with LRE for at-risk youths when its consortium of grantees implemented the national LRE program in schools. Interim assessments of this effort suggest positive effects on youths. Administrators and staff of facilities and programs using LRE with this target population have been extremely supportive of the effort.

To expand and augment these initial activities, OJJDP funded two organizations in Fiscal Year 1993 to provide training and technical assistance in law-related education focused on youths in juvenile justice settings. Fiscal Year 1993 awards were made to American Correctional Association/New York Division for Youth and to the Virginia Commonwealth University/Virginia Institute for Law and Citizenship Studies for implementation of LRE in juvenile justice settings.

Applications will be solicited for two new projects to be funded under the initiative in Fiscal Year 1994. The program's major objectives are to increase awareness of LRE in the juvenile justice community; develop or adapt and disseminate LRE curricula and lesson plans used to train youths under the supervision of the juvenile court; provide training and technical assistance to teachers and others in the juvenile justice system; increase public awareness of LRE in juvenile justice settings; and develop an implementation model for future evaluation of this intervention with targeted youths.

Innovative Approaches in Law-Related Education, $260,000*

The purpose of this initiative is to provide support for programs to develop promising, innovative ideas for the delivery of law-related education. The program encompasses the following objectives:

- To promote and support innovative research, development, demonstration, or training programs in the field of law-related education;
- To encourage new methods of focusing law-related education on delinquency prevention within or outside the traditional classroom setting; and
- To develop knowledge that will lead to new techniques, approaches, or methods to deliver law-related education for purposes of preventing delinquency.

Fiscal Year 1993 awards were made to the Boulder County Colorado Board of County Commissioners and to the Professional Development and Training Center at the University of Maryland.

Applications will be solicited for up to three new projects to be funded under this initiative for Fiscal Year 1994 for one year project periods.

National Student/Parent Mock Election, $100,000*

The National Student/Parent Mock Election (NSPME) is an educational exercise in American government and civic responsibility. It invites millions of middle and high school youth to participate with their parents to cast a "mock" vote on the candidates running for Office in November, 1994 and on key issues facing the country.

The program is a law-related education experience that includes a curricula that is highly interactive and concludes with the mock election itself. The program is administered by a non-profit organization which relies on an extensive group of volunteers to conduct mock elections throughout the country. The vote on Mock Election Night (usually one week prior to Election Day) will be televised from a national election headquarters in Washington, D.C. (During past mock elections, Cable News Network carried the election results "live.") The program relies on a number of private and public organizations donating facilities, equipment and expertise.

"Just Say No" International, $250,000*

A grant to "Just Say No" International to expand its Youth Power program to public housing projects in Oakland, California.

Jackie Robinson Center (JRC), $250,000*

JRC is a comprehensive program targeting at-risk youth which provides education, sports and counseling services. This effort will expand their recreational and cultural after school programs to additional schools.

Parents Anonymous, Inc., $250,000*

Parents Anonymous, Inc. will expand its national network of state and local organizations which seek to reduce juvenile delinquency through family self-help groups. The main focus of this program is to prevent child abuse and neglect.

Youth Crime Watch, $50,000*

Youth Crime Watch of America is a widespread, comprehensive and popular student-led anti-crime and drug problem. Youth Crime Watchers are crime fighters, students K–12 involved in a crime prevention movement BY STUDENTS FOR STUDENTS. The students are ready to do what it takes to create a strong sense of pride, respect and citizenship, using positive peer pressure to reduce crime in schools and neighborhoods. This is a jointly funded program with the Department of Education and the Bureau of Justice Assistance. This program will be expanded in 4 to 5 competitively selected Weed and Seed site and will be administered by BJA.

Delinquency Prevention

Continuation Programs

Law-Related Education (LRE), $2,700,000*

The Law-Related Education (LRE) National Training and Dissemination Program currently involves five national LRE projects and programs which operate in 48 States and four jurisdictions.

The program's purpose is to provide training and materials to State and local school jurisdictions to encourage and guide them in establishing LRE delinquency prevention programs in K–12 curricula and in juvenile justice settings. Grantees will be encouraged to emphasize drug abuse prevention programs in primary, middle, and secondary schools in urban minority communities. The major components of the program are coordination and management, training and technical assistance, preliminary assistance to future sites, public information, program development, and assessment.

This program will be implemented by the current grantees, the American Bar Association, the Center for Civic Education, the Constitutional Rights Foundation, the National Institute for Citizen Education in the Law, and the Phi Alpha Delta Legal Fraternity. No additional applications will be solicited in Fiscal Year 1994.

The Congress of National Black Churches: National Anti-Drug Abuse Program, $200,000

OJJDP proposes the continuation of this organization's national public awareness and mobilization strategy to address the problem of drug abuse and a drug abuse prevention in targeted communities across the United States. The goals of the national mobilization strategy are to summon, focus, and coordinate the leadership of the black religious community in cooperation with the Department of Justice and other federal agencies and organizations to help mobilize groups of community residents to combat effectively the supply and demand problems of drug abuse and drug-related crime activities among adults and juveniles.

The program would be expanded to address family violence intervention issues and target up to 10 additional cities. No additional applications would be solicited in Fiscal Year 1994.

Federal Interagency Partnership, Phase I (Cities in Schools), $200,000

This program is a continuation of a national school dropout prevention model developed and implemented by

Cities in Schools, Inc. (CIS). CIS provides training and technical assistance to States and local communities enabling them to adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship and other resources to high-risk youths and their families at the school level. Where CIS State organizations are established, they will assume primary responsibility for local program replication during the "Federal Partnership Program I."

This program is jointly funded by OJJDP and the Departments of the Army, Health and Human Services, and Commerce under an OJJDP grant. The total award for Fiscal Year 1993 was $1,400,000. This project would be implemented by the current grantee, Cities in Schools, Inc. No additional applications would be solicited in Fiscal Year 1994.

Targeted Outreach With a Gang Prevention and Intervention Component, $400,000

This program is designed to enable local Boys and Girls Clubs to prevent youths from entering gangs and to intervene with gang members in the early stages of gang involvement to divert them away from gangs and towards more constructive programs. The National Office of Boys and Girls Clubs would provide training and technical assistance to the 81 existing sites and add 25 new gang prevention and 6 intervention sites. The program would be implemented by the current grantee, Boys and Girls Clubs of America and receive an additional $100,000 FY 1995 funds. No additional applications would be solicited in Fiscal Year 1994.

Satellite Prep School Program and Early Elementary School for Privatized Public Housing, $600,000

This is a continuation of a demonstration program, in which OJJDP supported the establishment of an early elementary school program in Ida B. Wells Public Housing Development in Chicago, Illinois. This program is a collaborative effort between OJJDP, the Chicago Housing Authority (CHA), and the Westside Preparatory School and Training Institute (WSP) to establish a Prep-School on the premises of the Ida B. Wells Housing Development for kindergarten to fourth grade children living in this public housing development.

The Wells Prep-School opened with kindergarten and first grade students on September 14, 1992. In September 1993 a second grade was added. The Prep-School has been established and operates as an early intervention educational model based upon the Marva Collins Westside Preparatory School educational philosophy, curriculum, and teaching techniques. The Westside Preparatory School, a private institution located in Chicago's inner city, has had dramatic success in raising the academic achievement level of low-income minority children. Fiscal Year 1994 funds will be used to continue the operation and management of the school to continue technical assistance for the program and to add a third grade. Awards will be made to existing grantees. No additional applications will be solicited in Fiscal Year 1994.

Teens, Crime, and Community: Teens in Action in the 90s, $1,000,000*

This continuation program is conducted by the National Crime Prevention Council (NCPC) and the National Institute for Citizen Education in the Law (NICEL). Teens in Action in the 90s is a special application of the Teens, Crime and the Community program, which operates on two premises: (1) teens are disproportionately victims of crimes, and (2) teens are resources that can contribute to improving their schools and communities through a broad array of activities.

Under the Fiscal Year 1994 award, NCPC and NICEL will work through the National Teens, Crime, and the Community Program Center to harness the energies of young people toward constructive activities and to reduce crime and violence. The Program Center will be enlarged to serve as a formal clearinghouse for information and materials dissemination and to provide technical assistance and training to communities in establishing the program. With the increase in resources, NCPC will significantly expand the number of communities participating in this program.

This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1994.

Race Against Drugs, $115,000

Race Against Drugs (RAD) is a unique drug awareness, education and prevention campaign designed to help young people understand the dangers of drugs and live a non-impaired lifestyle. With the help and assistance from 21 motorsports organizations and the cooperation of the Federal Bureau of Investigation and National Child Safety Council it has become a fun and exciting new addition to drug abuse prevention programs. RAD now includes national drug awareness and prevention activities at schools, malls and motorsports events, posters, 21 TV public service announcements, signage on T-Shirts, hats, decals, etc., and specialized programs like the "Adopt-a-School Essay and Scholarship" programs: and 6–8 grades school *Be A Winner Action Book, A RAD Adult Guide* and *A RAD Coloring Book* for K–4 grades. This program will be jointly funded by the Bureau of Justice Assistance (BJA) ($40,000) and OJJDP ($75,000) and will be implemented by the current grantee, National Child Safety Council. No additional applications will be solicited in Fiscal Year 1994.

Missing Children

Prevention, Early Intervention, and Mediation Project for Missing and Exploited Children, $75,000

The purpose of this project, administered by Our Town Family Center of Tucson, Arizona, is to enhance the range of services to missing, exploited, and abused children and their families. These services include a school-based prevention program and home-based crisis intervention services. A new family mediation and dispute resolution program seeks to reduce the negative impact of high-conflict divorce and separation on children. The project will provide training workshops for local juvenile justice and school personnel. No additional applications will be solicited during Fiscal Year 1994.

Missing and Exploited Children Prevention and Services, $75,000

The purpose of this project, administered by Counseling Services of Addison County, Middlebury, Vermont, is to continue to expand and develop services to assist missing and exploited youth and their families in Addison County. Project activities include community education programs on child safety issues, counseling, outreach and safe shelter services for runaway and thrownaway youths, training for law enforcement officers, and crisis counseling for families of missing children. No additional applications will be solicited during Fiscal Year 1994.

Paul and Lisa Prevention and Intervention Efforts: Expansion and Improvement of Non-Profit Organization Projects, $75,000

This project expands Paul & Lisa's school-based exploitation prevention program in Connecticut, New York, and

New Jersey. Project activities include helping children develop ways to handle and discourage sexual advances, abduction, and exploitation by adults, and providing school personnel and service providers with strategies to prevent these problems and assist missing and exploited children. Training and technical assistance to organizations and coalitions in selected cities will be provided. No additional applications will be solicited during Fiscal Year 1994.

Project Niño Seguro Services—Addressing Missing and Exploited Children, $45,258

This project, administered by South Bay Community Services of Chula Vista, California, serves English-speaking and Spanish-speaking communities by providing education, information, and services to parents, children, and the community. The project is designed to reduce the occurrence of missing, abducted and exploited children. Project Niño Seguro provides direct counseling to individuals, families, and peer groups. No additional applications will be solicited during Fiscal Year 1994.

Community-Based Alternatives

New Programs

Communities attempting to refocus their juvenile justice system resources on serious, violent and chronic juvenile offenders will be assisted in developing and implementing comprehensive programs for juvenile offenders that combine accountability with treatment and rehabilitation services. These sites will be planning and implementing as many elements of OJJDP's Comprehensive Strategy as resources permit. If successful, they will serve as models for other jurisdictions.

Communities will also be assisted in developing a continuum of community-based care for offenders who do not present a threat to the public safety. For example, a program to provide a continuum of alternatives for females in the juvenile justice system is proposed.

In addition, a field-initiated research program will provide support to address issues related to the Comprehensive Strategy, including mental health issues, family preservation, and waiver and transfer to the criminal justice system.

Program To Promote Alternative Programs for Juvenile Female Offenders, $200,000

Historically, the unique service needs of females have not been given adequate attention in the juvenile justice system. Not only do females represent a smaller percentage of the delinquent population, when females act out their problems, they more often than boys become self-destructive, run away, become involved in prostitution, or turn to unhealthy, exploitative, or abusive environments for attention and shelter. Females may be further victimized when they seek help or come under the juvenile justice system because there are so few resources available to them. Since 1974, the JJDP Act has called for alternatives to confinement for females who have been placed in secure residential programs for less serious offenses than males or confined for longer periods than males.

Today, however, increasing numbers of females live on the streets or in unhealthy, exploitative, or abusive environments. Studies document the inequities of services between males and females and the perpetuation of a cycle of generational abuse, teen pregnancy, delinquency, and emotional dysfunction.

This initiative would fund two demonstration projects to serve the needs of female status offenders, delinquents, dependents, dropouts, and pregnant or teenage mothers. Each selected site must develop a comprehensive continuum of services designed to meet the unique needs of at-risk or delinquent female juveniles. The programs must include such specific components as training and education, life management and personal growth skills, health and counseling, parenting skills, job training skills, and community service. The resources provided for the first year would be used to support planning, initial development and implementation of the program.

This program would be competitively funded with the two sites funded at a level of up to $100,000 each during Fiscal Year 1994.

Serious, Violent and Chronic Juvenile Offender Treatment Program, $2,000,000

In Fiscal Year 1993, under a competitive announcement OJJDP funded two jurisdictions (Allegheny County, Pennsylvania Juvenile Court and the Department of Human Services in Washington, DC) to develop a plan for a systematic strategy for juvenile offenders that combines accountability and sanctions with increasingly intensive community-based intervention, treatment, and rehabilitation services as the seriousness of the offense increases or warrants. The plan's basic elements are to: (1) Assess the existing continuum of secure and nonsecure intervention, treatment, and rehabilitation services in each jurisdiction; (2) define the juvenile offender population; (3) develop and implement a programmatic strategy; (4) develop and implement an evaluative design; (5) integrate private nonprofit community-based organizations into juvenile offender services; (6) incorporate an aftercare program as a formal component of all residential placements; (7) develop a resource plan to enlist the financial and technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and (8) develop a victim assistance component utilizing local organizations. In Fiscal Year 1994, funds will be awarded noncompetitively to support implementation of the plan in the initial two sites, if they successfully develop action plans. In addition, funds will be competitively awarded to two new sites to plan and implement a comprehensive treatment program. All grants would be for up to $500,000 each.

Field-Initiated Research Program, $250,000

The Field-Initiated Research Program seeks to develop promising and innovative research programs relevant to the mission of OJJDP. This program offers an opportunity for support for research ideas generated in the field rather than by OJJDP. Priority topics would include mental health issues, gender bias, rural delinquency, family preservation, due process, waiver and transfer to the criminal justice system, violent youth gangs, disproportionate minority representation, institutional crowding, and other issues directly related to OJJDP's "A Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders."

OJJDP would provide up to three awards of up to $83,000 each under this program.

Robeson County, North Carolina, $337,075*

This grant is to the State of North Carolina to initiate two pilot violence reduction programs based on a successful model program implemented by the Governor's Crime Commission in Robeson County, N.C.

Lackawanna County, Pennsylvania, $50,000*

This is a grant to Lackawanna County, PA to initiate a Juvenile Crime Prevention Program with the local District Attorney, community representatives and counseling practitioners.

Portland Summer Diversion Project, $100,000*

An innovative gang prevention program in northeast Portland, Oregon established a summer program for high school youth that are at risk of joining gangs. It includes employment efforts, counseling and classroom instruction on life skills.

Community-Based Alternatives

Continuation Programs

Permanent Families for Abused and Neglected Children, $225,000*

This is a national project to prevent unnecessary foster care placement of abused and neglected children, to reunify the families of children in care, and to ensure permanent adoptive homes when reunification is impossible. The purpose of this project is to ensure that foster care is used only as a last resort and as a temporary solution. Accordingly, the project is designed to ensure that government's responsibility to children in foster care is duly acknowledged by the appropriate disciplines. Project activities include national training programs for judges, social service personnel, citizen volunteers, and others under the Reasonable Efforts Provision of 42 U.S.C. 671(a)(15); training in selected lead States; and development of a model guide to risk assessment. The program will be implemented by the current grantee, the National Council of Family and Juvenile Court Judges. No additional applications will be solicited during Fiscal Year 1994.

National Network of Children's Advocacy Centers, $500,000*

This program will continue to support the National Network of Children's Advocacy Centers through the development and implementation of coordinated training, technical assistance, and information sharing programs. The network links local Children's Advocacy Center programs whose purpose is to provide multi-disciplinary coordination in the investigation and prosecution of child abuse cases, limited seed money, training, and technical assistance. National leaders in this effort are the National Children's Advocacy Center in Huntsville, Alabama; the University of Oklahoma's Justice Center in Tulsa, Oklahoma; and the National Children's Advocacy Center in Honolulu, Hawaii, two of which will be under contract to provide training and technical assistance. A continuation application will be solicited from one organization in the National Network. No other applications will be solicited during Fiscal Year 1994.

Professional Development for Youth Workers, $200,000

The primary purpose of this program is to promote professional development of youth service and juvenile justice system providers through formal training. The program will include an inventory of existing training programs and their effectiveness, a needs assessment training survey, the development of curricula for several program settings, the design of a dissemination strategy, and the creation of an implementation plan for the second half of a two-year program.

Initially funded in Fiscal Year 1992, the Academy for Educational Development, Inc. will continue this three year program in Fiscal Year 1994. No additional applications will be solicited in Fiscal Year 1994.

School Safety Center, $250,000

The purpose of this collaborative program between OJJDP and Department of Education is to provide training and technical assistance regarding school safety to elementary and secondary schools, and to identify methods to diminish crime, violence, and illegal drug use in schools and on campuses, with special emphasis on gang-related crime. The National School Safety Center (NSSC) maintains a library and clearinghouse with specialized information, provides research on school safety issues, and develops publications and training programs. These funds would focus on prevention of drug abuse and violence in schools and establish State personnel trained in school safety to provide technical assistance to localities.

The Department of Education contributed to the support of this program with a transfer of $1 million of Fiscal Year 1993 funds for expenditure in Fiscal Years 1993–1994. This program would be implemented by the current grantee, the National School Safety Center at Pepperdine University. No additional applications would be solicited in Fiscal Year 1994.

Juvenile Restitution, $250,000

OJJDP will continue to support the juvenile restitution training and technical assistance program in Fiscal Year 1994. The project design is based on practitioner recommendations for current needs in the field. OJJDP initiated a survey on how best to expand and institutionalize restitution as a viable juvenile justice disposition. In addition to the survey, a working group was convened to help map out the course of OJJDP's support for optimum development of the components of restitution. These components will include community service, victim reparation, victim-offender mediation, offender employment and supervision, employment development, and potential program elements designed to establish restitution as an important alternative in improving the juvenile justice system. This project is guided by the need to provide a balance of community protection, offender competency development and accountability in the provision of community-based sanctions.

The Division of Applied Research of Florida Atlantic University was competitively selected in Fiscal Year 1992 to implement this three year project. No additional applications will be solicited in Fiscal Year 1994.

Insular Area Support, $403,000*

The purpose of this program is to provide supplemental financial support to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. These funds are available to address the special needs and problems of juvenile delinquency in the insular areas, as specified by Section 261(e) of the JJDP Act, 42 U.S.C. 5665(e).

OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center, $650,000

The purpose of this contract is to provide technical assistance and support to OJJDP, the National Institute for Juvenile Justice and Delinquency Prevention, OJJDP grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. The program will be completed during FY 1994.

Native American Alternative Community-Based Program, $540,000

This program is designed as a collaborative interagency effort between OJJDP and other public and private organizations concerned about juvenile delinquency among Native Americans. Its purpose is to develop community-based alternative programs for Native American youths adjudicated delinquent and to develop a re-entry program for Native American delinquents returning from institutional placements. A multi-component design has been developed in the four project sites. Additional training and technical assistance will be provided to integrate

the critical elements of the OJJDP Intensive Supervision and Community-Based Aftercare programs with cultural elements traditionally used by Native Americans to control and rehabilitate offending youths.

The project sites, initially funded in Fiscal Year 1992, are the Red Lake Band of Chippewa Indians, the Navajo Nation, the Gila River Indian Community and the Pueblo of Jemez. A training and technical assistance provider, The National Indian Justice Center provides the sites with training and technical assistance. No additional applications will be solicited in Fiscal Year 1994.

Missing Children

Community Action for the Prevention of Missing and Exploited Children, $125,000

This project enables the District of Columbia's Center for Child Protection and Family Support to expand its direct service activities to high-risk inner city youths, specifically teenage parents, through the development of a specialized education component designed to educate families on child safety, enhance their understanding of potential abduction and exploitation, and improve the systematic response to dealing with the issues of missing and exploited children. No additional applications will be solicited in Fiscal Year 1994.

Provide Services to Recovered Missing Children and Their Families, $30,000

The purpose of this project is to support the activities of Find the Children of Los Angeles, California, as coordinator of a local multi-agency task force activated upon the recovery of a child. Find the Children coordinates interagency communication to evaluate a child's or family's needs at the time of recovery, assists them in obtaining access to available services, collects data, manages relevant treatment-intervention plans, and issues reports in conjunction with the Interagency Council of Child Abuse and Neglect. No additional applications will be solicited in Fiscal Year 1994.

Improvement of the Juvenile Justice System

New Programs

The new programs funded under this objective support the Comprehensive Strategy. In addition, program development will be provided to the PACT (Pulling America's Communities Together) program sites. The four new violence studies will provide valuable information regarding community violence patterns, with a particular focus on homicides, and identify strategic law enforcement responses. Child-centered community policing will be furthered, under joint support from the Bureau of Justice Assistance, in New Haven, Connecticut. The city's exemplary program will serve as a host site for training other jurisdictions. In another effort, promising program models for prevention, intervention, and treatment of female juvenile offenders will be identified and distributed to jurisdictions across the country. Other projects will focus on detention and corrections, helping the juvenile justice system refocus resources on the most serious, violent, and chronic offenders while improving conditions of confinement.

Finally, a major effort under this objective will be focused on community interventions with violent youth gangs. Additional funds appropriated this year for Part D of the JJDP Act will be used to expand the Office's previous work in this area into an Integrated Gang Program to include demonstration programs and evaluation, research, training, technical assistance, and information dissemination. Many cities experiencing gang problems will benefit directly from information and technical assistance resource to address gang violence.

"Pulling America's Communities Together: Program Development", $250,000

Project PACT (Pulling America's Communities Together) is a Federal initiative designed to empower communities to fight crime. The project presently focuses on four areas: Metropolitan Denver, the State of Nebraska, Metropolitan Atlanta, and Washington, D.C. In these four areas, the Federal Government is supporting and fostering the development of broad-based, fully coordinated local and statewide anti-violence initiatives that work strategically to secure community safety.

The grantee will provide the sites with advice and assistance in assessing youth violence problems and in identifying successful crime prevention and violence reduction programs and models for consideration, adaptation, and implementation in PACT area violence reduction strategies. Moreover, the grantee will provide training and technical assistance on crime prevention and violence reduction topics and coalition and team-building processes.

The program will be implemented by a current grantee, the National Council on Crime and Delinquency. The Bureau of Justice Assistance (BJA) and OJJDP are jointly funding this project. BJA is contributing $200,000. No additional applications will be solicited in Fiscal Year 1994.

Violence Studies, $1,000,000*

The 1992 Amendments to the JJDP Act require OJJDP to conduct a study on violence in Milwaukee, Wisconsin; Los Angeles, California; Washington, DC; and one rural area. Building on the results of OJJDP's Program of Research on Causes and Correlates, the study will address the incidence of violence committed by or against juveniles in urban and rural areas of the United States. In Fiscal Year 1993 OJJDP initiated the study by supporting its planning phase. It is anticipated that awards will be made to conduct studies in each of the four designated sites.

Child-Centered Community-Oriented Policing, $300,000

In Fiscal Year 1993, OJJDP provided support to the New Haven, Connecticut, Police Department and the Yale University Child Development Center to document a child-centered community-oriented policing model, the first phase of which is being implemented in New Haven. The basic elements of the model are a ten-week training course in child development for all new police officers and child development fellowships for all community-based sergeants who direct neighborhood police teams. Fellowships provide four to six hours of training a week over a three-month period at the Child Study Center; 24 hour consultation services from a clinical professional and a police supervisor to patrol officers to assist children in violent situations; weekly case conferences with police officers, educators, and child study center staff; open police stations located in neighborhoods available to residents, used for purposes other than processing arrestees; community liaison; and neighborhood foot patrols.

For Fiscal Year 1994, Community Policing funds transferred from the Bureau of Justice Assistance would support a technical assistance and training grant to support the New Haven and Yale partnership in serving as a host site to jurisdictions interested in replicating the essential elements of the model. Participating jurisdictions must either have an established community-oriented policing program which lends itself to replicating the child-centered elements or have strategic plans for implementing a community-oriented policing model, and propose to replicate the model's essential elements.

Additionally, eligible jurisdictions must have the support of the mayor, or

chief executive, and must have as co-applicant the human services agency responsible for providing social, medical, or psychological services to families and children in the jurisdiction. Jurisdictions selected will send a team of the city's key decision makers (mayor, police chief, director of human services agency) to New Haven for intensive orientation, followed by an extended visit from key staff of the agencies responsible for implementing the program. On-site technical assistance will be available from New Haven during implementation.

The program is expected to reduce the disproportionate incarceration of minority youths and the number of youths referred to detention and jails by training patrol officers to support prevention activities and to intervene positively with youths. Jurisdictions interested in participating in this program would coordinate with Yale/New Haven to apply for consideration. Details would be provided in the final program plan. No additional applications would be solicited in Fiscal Year 1994.

What Works: Programs for Juvenile Female Offenders, $50,000

This project would assess promising programs providing prevention and treatment services for juvenile female offenders and conduct a national symposium of researchers and practitioners. Because female status offenders are detained at a much higher rate than males, this project would also examine alternatives to detention. The assessment and symposium would be coordinated with States which, under the OJJDP Formula Grants Program and the Government Accounting Office, are examining gender-bias and gender specific services in the juvenile justice system. The symposium papers and proceedings will identify critical issues related to prevention, intervention, and treatment alternatives for female juvenile offenders. This would be a one-year project culminating in a report on promising approaches and a research and program development agenda for the future. One award will be made to supplement the work being done by the Girls, Inc. in an amount up to $50,000.

Training for Line Staff in Juvenile Corrections and Detention, $250,000

OJJDP proposes to support a multi-year training program for line staff of juvenile corrections and detention facilities. The training would convey that the mission of juvenile justice is to create a positive environment that encompasses education, social services, mental and physical health, and corrections. Training curricula would be designed or developed from existing resources that are timely, current, and meet the needs of the populations served in these facilities. For example, training could be offered in risk assessment, a range of treatment modalities, behavior management, safety and health issues, peer mediation, and conflict resolution.

A certification program would be developed to facilitate development of progressive skills. Special attention would be devoted to motivation in relation to institutional culture. The grantee chosen to implement the program would establish a limited technical assistance capability to complement this program. Practitioner-oriented organizations are encouraged to submit joint applications. One application would be funded in the amount of up to $250,000.

Comprehensive Gang Program, $2,000,000

OJJDP has developed a Comprehensive Gang Program in response to the Part D amendments to the 1994 JJDP Act. Our program includes five major components which will be coordinated efforts. The first three are new initiatives for which applications are being competitively solicited in Fiscal Year 1994.

1. The National Gang Assessment Resource Center will be established to assess the nature and extent of the gang problem; to review the current gang literature; to advance statistical data collection and analyses; to identify promising program models; to conduct gang-related legislative analysis; and to synthesize such information gathered into meaningful dissemination products. ($500,000 in FY 1994 and $250,000 in FY 1995)

2. OJJDP will fund five sites ($200,000 each) to implement the Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program, developed by Irving Spergel and his colleagues at the University of Chicago (1993). ($1,000,000)

3. An independent Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program will be sponsored to assist sites in establishing realistic and measurable objectives, to document program implementation, to measure the efficacy of a variety of program strategies, and to provide useful interim feedback to program implementors. ($250,000)

4. Training and technical assistance regarding the Comprehensive Community Strategy for Dealing with Gangs and Drugs will be provided to all OJJDP-sponsored prevention and intervention sites, as well as to other jurisdictions considering implementation of this approach. OJJDP will use an existing training/technical assistance contract to provide such services. No applications are being solicited.

5. Targeted Acquisition and Dissemination of Gang Materials will be provided through the Juvenile Justice Clearinghouse, in cooperation with all of the above integrated gang response participants. OJJDP's Juvenile Justice Clearinghouse will provide these services. No applications are being solicited.

OJJDP will establish a Gang Consortium which will include OJJDP gang program managers, and project directors and key staff from each of the OJJDP sponsored gang program initiatives. The membership of the Gang Consortium may also include interested representatives of other Federal agencies who are involved in gang-related program development. The purpose of the Gang Consortium will be to facilitate ongoing coordination of program development, information exchange, and service delivery nationwide.

Marketing the Conditions of Confinement Study, $100,000

The recently completed Abt Associates report on the Conditions of Confinement study, which focused primarily on standards conformity, provided a preliminary analysis of data collected under this research. There are numerous substantive areas that have not yet been explored. The keen interest of the field in the results of this first report indicates the need to provide support to further analyze the data base, particularly data from site visits and interviews with facility staff, youths, and administrators; prepare practitioner-friendly reports; respond to ad hoc requests for special data analyses; and make specialized presentations to a variety of audiences who have an interest in improving conditions of confinement.

Further analysis and dissemination of this report will provide support to the National Consortium formed to foster the implementation of the study recommendations. A continuation grant would be awarded to Abt Associates. No additional applications would be solicited in Fiscal Year 1994.

Conditions of Confinement Follow Up—Performance Standards, $250,000

One of the major findings of the Abt Associates "Conditions of Juvenile Confinement" study is that existing

correctional standards are procedural in nature and do not, even if complied with, reflect positively on conditions of confinement in the institutions that house our nation's troubled youths.

A group of corrections and detention administrators who met in Austin, Texas, in the spring of 1993, concluded that performance-based standards must be developed if the field is to move toward improved services for youths and greater accountability for performance in service areas. In developing these standards, drafters will be required to confer and agree on their goals, and to define indicators that measure goal attainment.

The grantee selected would work with representatives from a broad-based consortium of corrections and detention practitioners and youth advocacy professionals in education, health, mental health, and social services to develop, on a priority basis, measurable performance standards.

The standards developed under this initiative would be practitioner driven and enhance existing nationally recognized standards for juvenile correction and detention facilities. The standards should cover system, staff, and youth performance as well as the quality of life for residents of these facilities.

OJJDP would solicit a multi-year grant for the development of performance-based standards for juvenile corrections and detention.

Training and Technical Support for State and Local Jurisdictional Teams to Focus on Juvenile Corrections and Detention Overcrowding, $100,000

The Conditions of Confinement Study identified overcrowding as the most urgent problem facing juvenile corrections and detention facilities. Overcrowding in juvenile facilities is a function of decisions and policies made at the State, county, and city levels. The trend in a number of jurisdictions toward the inappropriate use of detention and commitment to State facilities has been reversed when key decision makers, such as the chief judge, chief of police, director of the local detention facility, head of the State juvenile correctional agency, and others who affect the flow of juveniles through the system, agree to make decisions collaboratively and to modify practices and policies.

In some instances, modification has occurred in response to court orders. Compliance with court orders is improved with the support of enhanced interagency communication and planning among those agencies affecting flow.

To address the problems of overcrowded facilities, OJJDP plans to support an initiative focused on implementing the recommendations of the Abt study regarding overcrowding. This project would involve developing training and technical assistance materials for use by State and local jurisdictional teams. Assistance would be provided in planning and problem solving strategies to reduce or prevent overcrowding in juvenile facilities. Follow-up technical assistance would also be provided to assist in carrying out plans and strategies developed under the training phase.

It is anticipated that one competitive grant or cooperative agreement in the amount of $100,000 would be awarded in FY 1994.

Juvenile Statistics Improvement, $175,000

OJJDP proposes to fund a project to improve juvenile custody statistics and further the development of an integrated and comprehensive program of national juvenile justice statistics. The initial emphases of this program will focus on: (1) Juvenile custody statistics, and (2) information on juveniles waived or transferred to criminal court. Custody was chosen for improvement because custody statistics are needed to monitor the custody rates and characteristics of offenders who penetrate the juvenile justice system and the types of intervention received.

OJJDP recently convened a Juvenile Custody Statistics Symposium of juvenile justice practitioners, data collectors, providers, and users to help OJJDP reexamine data needs regarding the juvenile custody population and the custody function. The participants' feedback on the need for timely, useful and accurate information is reflected in this plan. The Symposium produced consensus on a number of short-term and long-term needs. In the immediate future, OJJDP will take steps to rebuild the data collection infrastructure of custody and waiver/transfer statistics. The design of work for the waiver and transfer data collection will be informed by the results of the General Accounting Office study of juvenile waiver to criminal court.

The Symposium also produced general consensus regarding data collection priorities and requirements. Within this framework, OJJDP is weighing specific redesign options for producing custody statistics. To this end, OJJDP proposes to pilot test new data collection methods to examine their feasibility and utility among the tests under consideration are the following:

- The design of a new effort to collect individual level data on juveniles in facilities. This new effort will capture detailed demographic and offense data.
- A redesign of facility-based information collections. The anticipated data collections would revitalize the present collection efforts and build on the success of the Conditions and Confinement study.
- A new detention data collection effort to monitor the use of detention and to serve as a barometer of activity in the juvenile justice system.

In order to collect data on juveniles tried in criminal court, OJJDP will pretest data collection instruments for possible use in a supplemental award to the BJS National Prosecutor's Survey.

These pilot tests would explore new data collection technologies (such as computer aided surveys, telephone data entry, and electronic submission of data).

OJJDP anticipates entering into a one-year interagency agreement with the Bureau of the Census to carry out the tasks associated with this work.

Intensive Community-Based Aftercare Demonstration, Technical Assistance, and Evaluation Program, $750,000

This initiative is designed to support the implementation, delivery of technical assistance, and the evaluation of a selected number of jurisdictions currently participating in an OJJDP-sponsored pilot program.

Eight pilot test sites (NC, NJ, TX, CO, NV, PA, VA, MI) will compete for the opportunity to participate in a national independent evaluation. Four sites will be selected and will be awarded up to $100,000 each to partially support the program design demonstration. An estimated $140,000 will be awarded to an independent evaluation contractor to complete initial evaluation design work and document the process. Funding from Fiscal Years 1995 and 1996 will be utilized to support an impact evaluation.

The John Hopkins University will receive a supplemental award of up to $210,000 to continue to provide technical assistance and training to all sites making progress towards implementation. The project period for this initiative will be 36 months. Awards will be made in 12-month increments.

National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center, $300,000

Sections 244, 245, and 246 of the JJDP Act of 1974, as amended, authorize support of training and technical assistance programs for juvenile justice

and related personnel. These services have been provided through grants, cooperative agreements, and interagency agreements using a variety of training formats and materials. OJJDP proposes to establish comprehensive and uniform training coverage of the field in order to increase the effectiveness of OJJDP-supported training and technical assistance. To achieve this, the Office would issue a solicitation for an award to establish a Training and Technical Assistance Center to provide the following services and activities to the juvenile justice field:

- A centralized access point for information about training and technical assistance;
- Development of specialized training teams to assist State and local programs, respond to specialized issues or needs, and provide training and certification of trainers;
- Development and distribution of training and technical assistance materials;
- Support for National and regional training events;
- Assessment and evaluation of training programs;
- Information on training models and specific issues affecting training of staff working with juveniles; and
- Provide opportunities for networking and exchanging information and ideas to create learning opportunities for youth development professionals.

The Center would provide the following benefits to support OJJDP training and technical assistance responsibilities:

- Support coordination of all OJJDP training and technical assistance projects;
- Respond immediately to emerging training needs through development and delivery of specialized training and technical assistance;
- Support an agency managed system for effective monitoring of contracted services, efficient use of services, and prevention of overlap of services;
- Coordinate data regarding participants and curricula received from OJJDP-funded grantees and contractors and centralize the information gathered;
- Facilitate the exchange of information about training technologies and provide access to information resources.

In the first year, a catalogue of OJJDP's training activities would be published, including course descriptions, training organizations, and schedules. Other products of the Center during the first year would include the design and testing of a trainer's curriculum, production of training manuals and training jurisdictional teams to respond to critical issues and problems. A competitive multi-year contract in the initial amount of $200,000 would be awarded with Fiscal Year 1994 funds and $100,000 of Fiscal Year 1995 funds.

Telecommunications Assistance, $200,000

Developments in information technology and distance training can expand and enhance the information dissemination, training and technical assistance activities of OJJDP programs. These technologies can be employed to enhance present capabilities for existing grantees by increasing access of persons in the juvenile justice system to information and training, reducing travel costs to conferences, and saving time used to attend meetings requiring one or more nights away from one's home or office. OJJDP proposes to award a cooperative agreement to a qualified organization to provide program support, technical assistance and necessary equipment for a variety of information technologies, including audio-graphics, satellite teleconferences, and fiber-optic teleconferences. OJJDP would select from among its grantees to provide the curricula or program information to be presented via telecommunications technologies. A secondary purpose of the grant program would be to support OJJDP in marketing the technology for additional users. A cooperative agreement in the amount of $100,000 would be awarded with Fiscal Year 1994 funds and $100,000 of Fiscal Year 1995 funds.

Interventions To Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (the Deborah Ann Wysinger Memorial Program), $600,000

National data and studies have demonstrated that minority offenders are overrepresented in secure facilities across the county. In response to this problem, OJJDP issued regulations in 1989 requiring States participating in the Formula Grants Program to determine the existence of disproportionate minority confinement and to design strategies to reduce the problem where it exists. As of February 1993, 42 States had completed the required data analyses, with all but one determining that minority juveniles were overrepresented in secure facilities. Analysis of the data provided by the States further indicates that minority youths are disproportionately represented at several points in the juvenile justice system.

This competitive Special Emphasis program would provide funds to States, local units of government and not-for-profit organizations to demonstrate effective interventions designed to eliminate the disproportionate confinement of minority juveniles in secure detention or correctional facilities, adult jails and lockups, and other secure institutional facilities. Activities appropriate for funding under this initiative would include such programs as:

- Training and education programs for law enforcement and juvenile justice practitioners;
- Diversion programs for minority youths who come in contact with the juvenile justice system;
- Prevention programs in communities with high numbers of minority residents;
- Programs to increase the capacity of community-based organizations to provide alternatives to detention and incarceration for minority youths; and
- Aftercare programs designed to assist minority youths returning to their communities from secure institutions.

Grants would be available to State and local agencies, local units of government and not-for-profit organizations as defined in section 223(a)(1) of the JJDP Act in amounts ranging from $55,000 to $100,000 for the implementation and evaluation of interventions to reduce disproportionate minority confinement. In addition to the general selection criteria applied to all OJJDP competitive application solicitations, the Office will take into consideration the jurisdiction's development of multiple strategies to address the problem and need based on high minority over-representation indices as identified in the Phase I data collection analysis. Programs will be required to coordinate with OJJDP's program evaluation contractor.

Non-Violent Dispute Resolution, $250,000

The Non-Violent Dispute Resolution program is a joint effort of OJJDP and the Bureau of Justice Assistance (BJA) to test a variety of proposed strategies to train teenage students to constructively manage anger, resolve conflict(s), learn the importance of mutual respect, and be responsible for their actions. Up to three organizations and/or agencies will be identified to implement program models. Qualified applicants must have demonstrated successful work in programs which include collaborative efforts among educators, counselors, criminal justice representatives, and parents/caretakers. Applications will be solicited by BJA on a competitive basis.

Models of Effective Court Based Service Delivery to Children and Their Families, $250,000

The expanding role of State courts in today's complex society is particularly evident in the struggle to address the problems and needs of children and families. Courts often have the charge of monitoring and enforcing treatments recommended by human services professionals, sanctions sought by law enforcement agencies, and mandates imposed by Federal and State legislation. In many instances, courts are the last resort for dysfunctional families. Because of these trends, courts have become, often by default, service coordinators, attempting to match the needs of individuals to services available in the community. Courts are undertaking the role of service provider in a vacuum of information of what works and why.

This program would develop and demonstrate effective models for the acquisition, delineation and provision of social services through court auspices. It would examine the nature and extent of the services provided by courts; at what points in the process the services are provided; and, the extent of the coordination of the services across individuals, cases, and service providers. The effectiveness of the models would be evaluated based on their impact on court operations (e.g., the resources needed to implement various models) and the quality of the services provided to clients. This program builds on the results of the recent National Symposium on Courts, Children, and Families conducted by the National Center for State Courts in cooperation with the Conference of State Court Administrators. OJJDP would participate in and provide funding for this program through the Bureau of Justice Assistance under a cooperative agreement with the National Center for State Courts. No additional applications would be solicited in Fiscal Year 1994.

Delinquency Prevention Training and Technical Assistance, $569,076

The purpose of this contract is to provide nationwide training and technical assistance (TA) to local jurisdictions in developing and implementing comprehensive community-wide risk-focused delinquency prevention strategies under Title V, Section 505, of the JJDPA. The specific training and TA objectives are to: provide communities with a full understanding of the risk-focused delinquency prevention approach; provide a mechanism for the key leadership of a community to develop consensus on an overall strategy; provide a strategy for involving the entire community in delinquency prevention planning; provide a process for communities to conduct a risk and resource assessment; provide communities with a strategy for developing an action plan based on the results of the risk and resource assessment; and provide communities with a strategy to implement their action plan.

The training will be provided in cooperation with the state agencies that administer the Formula Grants program. A sole source contract has been awarded to Developmental Research and Programs, Inc. to provide training in the "Communities that Care" prevention strategy.

Seeds of Success—Log Cabin Honor Ranch, $150,000*

The City of San Francisco Juvenile Probation Department and the San Francisco State University are working on a joint project with the Log Cabin Honor Ranch. This project provides education and training opportunities for at-risk youth.

Douglass County, Nebraska, $67,055*

This is a grant for a youth pretrial diversion program in Douglas, County, NE.

P.A.C.E. Center for Girls, Inc., $150,000*

The State of Florida will expand its P.A.C.E. Center for Girls, Inc. to several new sites. P.A.C.E. provides a juvenile judge with an alternative to incarcerating at-risk teenage girls arrested for status and minor offenses.

Improvement of the Juvenile System

Continuation Programs

Children in Custody, $300,000

Under this collaborative program between the OJJDP and U.S. Bureau of the Census, OJJDP proposes to transfer funds to the U.S. Bureau of the Census to conduct the biennial census of public and private juvenile detention, correctional, and shelter facilities. The census describes the target facilities in terms of their resident population as well as their programs and physical characteristics.

The program would be implemented under an interagency agreement with the U.S. Bureau of the Census. No additional applications would be solicited in Fiscal Year 1994.

Juvenile Justice Clearinghouse, $1,006,798

Part of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse provides support to OJJDP in: (1) Collecting, synthesizing and disseminating information on all aspects of juvenile delinquency; (2) developing publications; and (3) preparing specialized responses to information requests from the juvenile justice field. The Clearinghouse maintains a toll-free number for information requests.

The Clearinghouse also reviews on a continuing basis reports, data, and standards relating to the juvenile justice system in the United States and develops special resource products for the juvenile justice community.

The Clearinghouse serves as a information center for the acquisition and dissemination of information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability or resources, training and educational programs, statistics, and other pertinent data and information. The Clearinghouse serves as an information bank systematically collecting and synthesizing the data and knowledge obtained from research and evaluation by public and private agencies, institutions or individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency.

Recognizing the critical need to inform juvenile justice practitioners and other policymakers on program approaches which hold promise, the Clearinghouse continually develops and recommends new strategies to communicate the research findings and program activities of OJJDP to the practitioner community.

The entire NCJRS contract, of which the JJC is a part, and which is administered by the National Institute of Justice (NIJ), is scheduled for competitive award in Fiscal Year 1994.

Coalition for Juvenile Justice, $650,000*

The Coalition for Juvenile Justice (Coalition) was established in 1983 as the National Coalition of State Juvenile Justice Advisory Groups. It was renamed the Coalition for Juvenile Justice effective January 1, 1993. The Coalition supports and facilitates the purposes and functions of State juvenile justice advisory groups. In 1984, Congress tasked the Coalition to review Federal policies regarding juvenile justice and delinquency prevention, prepare and submit an Annual Report

and recommendations to the President and Congress, and provide advice to the OJJDP Administrator. The Coalition is also authorized to develop an Information Center for Juvenile Justice and Delinquency Prevention Programs, to conduct an Annual Conference and to disseminate information, data, standards, advanced techniques, and program models. No additional applications will be solicited in Fiscal Year 1994.

Juvenile Justice Data Resources, $25,000

This program addresses the need to enhance the availability of juvenile justice data sets for secondary analysis. It will be implemented under an interagency agreement with the University of Michigan. No additional applications will be solicited in Fiscal Year 1994.

Juvenile Justice Statistics and Systems Development, $275,000

The purpose of this program is to improve Federal, State, and local juvenile justice statistics and to enhance decision making and management information systems (MIS) within the juvenile justice system. The SSD Program helps OJJDP formulate a comprehensive National Juvenile Justice Statistics program which will include a series of regular reports on the extent and nature of juvenile offenses and victimization and the justice system's response to the same. A major product will be a Report to the Nation on Juvenile Crime and Victimization.

The program will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in Fiscal Year 1994.

Juveniles Taken Into Custody (JTIC): Interagency Agreement, $200,000

The U.S. Bureau of the Census is working with OJJDP to develop a national comprehensive statistical reporting system responsive to the information requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and to the needs of the juvenile justice field for data on juvenile custody populations in order to assist State legislatures and juvenile justice professionals in planning and policy-making decisions. The Census Bureau acts as the data collection agent for the JTIC program. The program will be implemented under an interagency agreement with the U.S. Bureau of the Census. No additional applications will be solicited in Fiscal Year 1994.

National Juvenile Court Data Archive, $610,915*

This program collects, processes, analyzes, and disseminates available data concerning the Nation's juvenile courts. The Archive collects automated data and published reports from juvenile courts throughout the Nation. Using the automated data, the Archive produces comprehensive reports on the activities of the juvenile courts. These reports examine referrals, offenses, intake, and dispositions as well as specialized topics such as minorities in juvenile courts or specific offense categories. The Archive provides assistance to jurisdictions in analyzing their juvenile court data.

The program will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in Fiscal Year 1994.

Contract for the Evaluation of OJJDP Programs, $652,341

Information is being collected on the efficiency, cost-effectiveness, and impact of OJJDP programs implemented through discretionary grants, interagency agreements, contracts, and possibly formula grants. OJJDP will use the reported findings, including strengths, weaknesses, and other assessment data, to make policy and planning decisions. The information may also benefit Congress, other Federal agencies, and State and local juvenile justice and child service staffs.

The grantee is:

1. Providing evaluative assessments of potential programs;

2. Conducting a process evaluation of, and designing an impact evaluation for, the Satellite Prep School project;

3. Designing a process and impact evaluation for the LRE Juvenile Justice Initiative project; and

4. Evaluating: (a) The training provided under the Gang and Drug POLICY program; (b) The Intensive Community-Based Aftercare project; (c) NIC Training for Juvenile Detention and Corrections Personnel; (d) The Disproportionate Representation of Minorities Initiative; and (e) The Serious Habitual Offender Comprehensive Action Program.

The contract is awarded to Caliber Associates for a three-year period. Third year funding, to be awarded in Fiscal Year 1994, is $652,341. No additional applications will be solicited in Fiscal Year 1994.

Children at Risk, $350,000

OJJDP, the Bureau of Justice Assistance (BJA), and the Center on Addiction and Substance Abuse (the Center) of Columbia University have undertaken a joint effort to help communities rescue their high risk pre-adolescents from the interrelated threats of crime and drugs. The program tests a specific intervention strategy for reducing and controlling illegal drugs and related crime in target neighborhoods and fosters healthy development among youths from drug- and crime-ridden neighborhoods. Multi-service, multi-disciplinary neighborhood-based programs are being established which will provide a range of opportunities and diverse services for pre-adolescents and their families who are at high risk of involvement in illegal drugs and crime. Simultaneously, the criminal and juvenile justice systems are targeting resources to reduce illegal drug use and crime in the neighborhoods where these young people reside. OJJDP funds are used for the delinquency prevention components of the program.

The Center has received funding from a number of Foundations, for this effort, which has been matched by OJJDP and BJA. Based on the proposals submitted, six communities were selected to receive funds beginning in Fiscal Year 1992 to implement programs over a three-year period: Seattle, Washington; Memphis, Tennessee; Bridgeport, Connecticut; Austin, Texas; Savannah, Georgia; and Newark, New Jersey. Foundation and government funding of between $500,000 and $1 million was allocated per community. The program will be implemented by the current grantee in the five communities. OJJDP funds will be transferred to BJA to implement the program under a BJA Grant and NIJ is supporting the evaluation with BJA funds. No additional applications will be solicited in Fiscal Year 1994.

Delay in the Imposition of Sanctions, $100,000

This project is a continuation of research undertaken to study the delays in the delivery of sanctions to juveniles in the juvenile court system. Where delays are found in the processing of juvenile court cases, the study will address the problems created by these delays and make realistic recommendations on how to correct the problems. This award will be the third and final year of funding for a three-year project and will support the completion of Phase III. Phase I and Phase II, which were completed in the first two years, consisted of a literature review and survey of court administrators to determine the extent to which processing delays occur, a description of

the characteristics that define the problem, an identification of the points in juvenile court case processing that are most susceptible to delays, an intensive site study that evaluated the effect that case processing delays have on juvenile courts' effectiveness and efficiency in handling delinquency cases, including the effect on juveniles themselves. Phase III will be the final stage of this three-year project, entailing a review of the project findings and development of a set of recommendations on how the juvenile justice system can improve case processing and reduce unnecessary delays. The program will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in Fiscal Year 1994.

Violence Study—Causes and Correlates, $300,000*

OJJDP proposes to support additional analyses of data collected under its Program of Research on the Causes and Correlates of Delinquency, conducted at the State University of New York at Albany, the University of Pittsburgh, and the University of Colorado. The draft final report, "Urban Delinquency and Substance Abuse," is under review. To use the collected data more fully, additional analyses need to be performed. These analyses are intended to enhance OJJDP's program development for serious, chronic, and violent offenders. Topics for analysis will be determined by program development requirements. For example, development of risk assessment instruments would benefit from more specific analyses regarding risk factors and pathways to chronic, serious, or violent offending.

This program would be implemented by the grantees noted above. No additional applications will be solicited in Fiscal Year 1994.

Training and Technical Assistance for Juvenile Detention and Corrections (The James E. Gould Memorial Program), $225,000

The project would continue to provide technical assistance and training to juvenile correctional and detention agencies, serve as a national forum on juvenile corrections and detention, hold workshops on selected key issues, provide on-site technical assistance, hold a National Juvenile Day Treatment Conference, and promote literacy education and networking.

The project, which would emphasize intermediate sanctions for non-violent juveniles involved in drug-related offenses and illegal activities in Fiscal Year 1994, would be implemented by the current grantee, The American Correctional Association. No additional applications would be solicited in Fiscal Year 1994.

Training for Juvenile Corrections Staff, $475,000

OJJDP proposes to continue the development and implementation of a comprehensive training program for juvenile corrections and detention staff through an interagency agreement with the National Institute of Corrections (NIC). The program is designed to offer a core curriculum for juvenile corrections and detention administrators and mid-level management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, gang activity, juvenile programming for specialized needs of offenders, and overcrowding. The training would be conducted at the NIC Academy and regionally. This program would be implemented in Fiscal Year 1994 under an interagency agreement with NIC. No additional applications would be solicited in Fiscal Year 1994.

Improving Literacy Skills of Institutionalized Juvenile Delinquents, $250,000

This is a competitively awarded program funding two grants: Mississippi University for Women ($125,000), and The Nellie Thomas Institute of Learning ($125,000). Many juvenile delinquents in correctional institutions need to develop basic reading and writing skills. The program will improve the literacy levels of juvenile residents in these facilities while creating a national network of trained reading teachers and volunteers available to juvenile correctional facilities. It will include training, follow-up technical assistance on teaching methods, and a curriculum for use by the staff of detention and corrections facilities.

This program will be implemented by the current grantees, The Mississippi University for Women, and The Nellie Thomas Institute of Learning. No additional applications will be solicited in Fiscal Year 1994.

Improvement in Correctional Education for Juvenile Offenders, $199,963

The purpose of this program is to assist juvenile corrections administrators in planning and implementing improved educational services for detained and incarcerated juvenile offenders.

In Fiscal Year 1992, the National Office for Social Responsibility (NOSR) was awarded a three year cooperative agreement to begin a comprehensive assessment of the literature and to produce a report documenting the state-of-the-art practices in educational reform. The results will determine how the information will be used in the future to improve educational services for incarcerated juveniles.

NOSR also will be awarded up to $200,000 to provide training and technical assistance to selected sites that are interested in implementing correctional education reform. No additional applications will be solicited for this training and technical program during Fiscal Year 1994.

Juvenile Court Training, $1,100,270*

The primary purpose of this project is to continue and refine the training and technical assistance program offered by the National Council of Juvenile and Family Court Judges. The training objectives are to supplement law school curricula, provide judges with current information on developments in juvenile and family case law, and make available options for sentencing and treatment. Emphasis will be placed on drug testing, gangs and violence, and intermediate sanctions. The project will provide foundation training to new judges and to experienced judges who have been recently assigned to the juvenile or family court bench.

The program will be implemented by the current grantee, The National Council of Juvenile and Family Court Judges. No additional applications will be solicited in Fiscal Year 1994.

Technical Assistance to the Juvenile Courts, $389,943*

The National Center for Juvenile Justice (NCJJ), the current grantee, is the research division of the National Council of Juvenile and Family Court Judges. The four types of technical assistance available under the grant are: (1) Information resources, (2) on-site consultation, (3) off-site consultation, and (4) cross-site consultation. Emphasis will be placed on intermediate sanctions for handling juveniles involved in drug-related offenses and gang activities. In addition, the project will examine appropriate use of juvenile records in adult court proceedings, including an examination of State laws and practices.

The current grantee, the National Center for Juvenile Justice, will implement the program. No additional applications will be solicited in Fiscal Year 1994.

Due Process Advocacy Program Development, $250,000

In Fiscal Year 1993, OJJDP funded the American Bar Association (ABA), in partnership with the Juvenile Law Center (JLC) of Philadelphia, PA and the Youth Law Center (YLC) of San Francisco, CA, to develop a due process advocacy program strategy. The goals of the program are to increase juvenile offenders' access to legal services; and to improve the quality of pre-adjudication, adjudication, and dispositional advocacy for juvenile offenders.

These strategies will be made available to state and local bar associations and other relevant organizations so that they can develop approaches to increase the availability and quality of counsel for juveniles. The ABA and its partners (JLC and YLC) will assess the current state-of-the-art with regard to legal services, training and education, develop strategies to improve access, availability and the quality of counsel and provide a comprehensive report on these issues. During the second funding cycle, training materials will be developed and tested in selected sites. Training materials will be adjusted based on the experience in the test sites and a dissemination strategy will be developed. The ABA will develop mechanisms for networking with legal service providers such as public defender offices and Children's Law Centers. Fiscal Year 1994 funding will support the first six months of the total second year budget of this three year effort. An additional $250,000 will be provided from Fiscal Year 1995 funds for the remaining six months of the second year. No new applications will be solicited.

Training in Cultural Differences for Law Enforcement/Juvenile Justice Officials, $150,000

The project will complete, test, implement, and provide for the dissemination and juvenile justice system utilization of, a cultural diversity training curriculum. The curriculum will be designed to serve the training of trainers in the police/juvenile justice field, and will respond to the unique needs of the major components of the juvenile justice system. Thus, it is expected that training modules and supportive materials will be oriented to cover the aspects of cultural/ethnic diversity particularly relevant to law enforcement, detention staff, probation officers, judges, institutional personnel, aftercare workers, and others involved in the various juvenile justice processes. An award for the current phase of the project will be made to the present grantee, the American Correctional Association. No new applicants will be invited.

Bootcamps for Juvenile Offenders: Constructive Intervention and Early Support, $550,000

During Fiscal Year 1991, and after an extensive competitive review process, OJJDP selected and funded three jurisdictions to participate in the Bootcamp for Juvenile Offenders program. The program is designed to create an alternative intermediate-sanction program for non-violent juvenile offenders under the age of 18. The program is also designed to emphasize discipline, treatment and work in a military-style bootcamp program. These programs are also participating in an independent, national evaluation to document the process and impact of the program.

OJJDP will use funds transferred from the Bureau of Justice Assistance (BJA) to provide a limited amount of supplemental funds to three currently Federally funded Bootcamp programs in a military-style bootcamp program based on their assessed needs. No new applications will be solicited in Fiscal Year 1994.

Comprehensive Gang Initiative, $500,000

In 1992, the Bureau of Justice Assistance (BJA) introduced the Comprehensive Gang Initiative. Funding for the Fiscal Year 1994 initiative will be a joint effort by BJA and OJJDP (OJJDP would transfer $500,000 to BJA to support this effort). The Police Executive Research Forum (PERF) has developed a model comprehensive approach to gang issues, which carefully balances initiatives for prevention, intervention and suppression. The model encompasses strategies which bring together cooperative and coordinated efforts of the police, other criminal justice agencies, human services providers and community programs. In addition to a prototype, PERF has developed a training curriculum and a program for providing technical assistance to model demonstration sites. The first four competitively selected demonstration sites were being funded during Fiscal Year 1993 and technical assistance was provided by PERF. Four additional sites will be funded in Fiscal Year 1994 through a competitive process. Applications would be solicited by BJA.

Missing Children

National Center for Missing and Exploited Children/Resource, $3,600,000

This grant will fund the National Center for Missing and Exploited Children to continue to provide the functions of a national resource center and clearinghouse on matters relevant to and required by Title IV—the Missing Children's Assistance Act. No additional applications will be solicited in Fiscal Year 1994.

Training and Technical Assistance for Nonprofit Missing and Exploited Children's Organizations, $250,000

This program will provide technical assistance and training to improve the capacity of nonprofit community-based missing children's organizations to engage in activities which will successfully prevent the abduction and sexual exploitation of children, assist in the recovery of children, and provide services to child victims and their families.

The program will be implemented by the current grantee, the National Victim Center, Arlington, Virginia. No additional applications will be solicited in Fiscal Year 1994.

Model Treatment and Services Approaches for Mental Health Professionals Working With Families of Missing Children, $200,000

The project's goals are to provide mental health personnel with effective treatment approaches and for the rehabilitation of families traumatized by child abduction and faced with reestablishing a state of normalcy in its aftermath. The current grantee is the Western Center for Child Protection, Reno, Nevada. No additional applications will be solicited in Fiscal Year 1994.

Obstacles to Recovery and Return of Parentally Abducted Children: Training, Technical Assistance, $250,000

The American Bar Association Center on Children and the Law, Fund for Justice and Education, recently completed two years of research that showed there are significant obstacles to location, recovery, and return of parentally abducted children. This project will attempt to alleviate some of these identified problems by developing products useful to the field, including continuing professional education and model statutes. No additional applications will be solicited in Fiscal Year 1994.

Development and Expansion of the Child Find Mediation Program to Locate Missing and Exploited Children and Prevent Child Abduction, $75,000

This program is designed to expand mediation program services to prevent parental abductions by increasing the level of awareness of the problem through public service announcements and programs targeting human resources, social service, health care professionals, and the clergy. Additional training will be provided for core mediators and Child Find staff in dispute resolution processes. No additional applications will be solicited in Fiscal Year 1994.

ECHO Program Expansion Assistance, $19,538

The purpose of this project is to enable the Exploited Children's Help Organization (ECHO) of Louisville, Kentucky, to expand existing services to missing and exploited children and their families. These services include community education and prevention; a quarterly newsletter providing information about missing and exploited children and the services available through ECHO; a parents support program; and the "Kids in Court" program. In cooperation with local police, ECHO will compile information about repeat runaways in order to develop a community runaway prevention program. No additional applications will be solicited in Fiscal Year 1994.

Missing and Exploited Children Comprehensive Action Plan (M/CAP), $999,905

The Missing and Exploited Children Comprehensive Action Program (M/CAP) is a multi-agency community action program. The grantee is Public Administration Services, McLean Virginia. The primary program activity is to provide training and technical assistance to help communities plan responses to priority missing and exploited children issues. The program provides programmatic, policy, and procedural approaches, and assists multi-agency community organizations to plan and deliver services in a more cooperative and responsive manner. No additional applications will be solicited in Fiscal Year 1994.

Funding Support for Private Non-profit Organizations Involved with Missing and Exploited Children, $70,500

The purpose of this project is to continue the implementation of an in-house information storage and retrieval system. This will enable the Vanished Children's Alliance of San Jose, California to increase the efficiency of its direct services to families affected by the loss of their children, provide information to law enforcement, and other service providers in a more timely manner, provide more direct counseling and technical assistance to missing children and their families upon recovery, develop effective services for families of long-term missing children, and enhance Vanished Children's Alliance's crisis intervention and referral systems. No additional applications will be solicited in Fiscal Year 1994.

Investigative Case Management of Missing Children Homicides, $150,000

The purpose of this project is to analyze up to 400 missing children homicide cases in order to identify, assess, test, demonstrate, and then describe the investigative practices that will most effectively solve missing and abducted children murder investigations.

The program development and activity will be carried out by the State of Washington Attorney General's Office, Criminal Investigation Division, and that Office's Homicide Investigation Tracking System (HITS), in collaboration with the National Center for Missing and Exploited Children (NCMEC) and NCMEC's cadre of volunteer investigators—America's Law Enforcement Retiree Team (ALERT). The products of the three-year project will be a child homicide investigative resource guide and a national law enforcement training and technical assistance program to aid local, State, and Federal agencies investigating missing children homicides. No additional applications will be solicited in Fiscal Year 1994.

Missing Children Data Archive, $50,000

OJJDP is committed to making publicly available all data sets produced from the Missing Children research programs. To do so, the research data files should be configured into a readily understandable data file with complete documentation. OJJDP has signed an Interagency Agreement with the University of Michigan for just such preparation and archiving of the data sets. Specifically, the University of Michigan will prepare the data and the documentation to conform to generally accepted standards for electronic data. In this way, the data will be more readily accessible for secondary analysis by policy analysts and researchers. During the past fiscal year, this project prepared the data from OJJDP's "National Study of Law Enforcement Agencies' Policies Regarding Missing Children and Homeless Youth." Previously, this project also prepared and distributed OJJDP's first "National Incident Study of Missing, Abducted, Runaway, and Thrownaway Children" (NISMART). In the coming year, OJJDP anticipates preparing the following data sets: "Families of Missing Children: Psychological Consequences and Promising Interventions," and "Obstacles to the Recovery and Return of Parentally Abducted Children."

Remember, They're Children: Using Video to Train Law Enforcement Personnel, $200,000

The purpose of the project is to minimize the negative impact of law enforcement investigative procedures on maltreated children. This will be accomplished through the intensive development and innovative dissemination to law enforcement personnel of a comprehensive video training curriculum designed to improve investigative responses to child victims of maltreatment.

The National Child Welfare Resource Center will provide small- and medium-sized departments with the resources (video curriculum, dissemination avenues, national guidebooks, and other materials) to train and support their staff on how to conduct effective but nontraumatizing child abuse investigations. No additional applications will be solicited in Fiscal Year 1994.

National Alzheimer's Patient Alert Program: Safe Return, $650,000*

This project supports the establishment of a national program to facilitate the identification and safe return of missing persons afflicted with Alzheimer's disease and related disorders. The goals of this project are: (1) To develop a central registry of computerized information on memory-impaired persons and a national toll-free telephone line to access the registry; (2) to create an identification system using ID jewelry and clothing labels, purchased and distributed through a central service; and (3) to produce educational materials for use and distribution by participating chapters of the Alzheimer's Disease and Related Disorders Association. No additional applications will be solicited in Fiscal Year 1994.

Discussion of Comments

OJJDP published its proposed Comprehensive Plan for Fiscal Year 1994 in the **Federal Register** on March 31, 1994, 57 FR 53339, for a 45-day period of public comment. The Office received 65 letters commenting on the

proposed plan. All comments have been considered in the development of the Final Comprehensive Plan for Fiscal Year 1994.

The majority of the letters OJJDP received provided positive comments about the overall plan and its programs.

The following is a summary of the substantive comments and the responses by OJJDP. Unless otherwise indicated, each comment was made by a single respondent.

Comment: Seven responses were received advocating continuation funding for two recipients of the Law-Related Education (LRE) in Juvenile Justice Settings program, the American Correctional Association in collaboration with the New York State Division for Youth and the Juvenile Justice Trainer's Association, and Virginia Commonwealth University in collaboration with the Virginia Institute for Law and Citizenship Studies.

Response: These programs were designed and funded as one year projects. Consequently, current recipients for this program will not be eligible for continuation funding.

Comment: A respondent commenting on the proposed "Telecommunications Assistance" initiative indicated that the RFP should carefully define "fiber optics."

Response: The term "fiber optics", will no longer be used in the RFP.

Comment: Three responses were received supporting the National Juvenile Detention Association's development of a training curriculum for juvenile detention center care givers.

Response: The National Juvenile Detention Association's efforts can become an integral part of the new solicitation in support of training line staff in both juvenile detention and juvenile corrections.

Comment: Several respondents identified the following initiatives as worthy of funding and ones in which the field considered critical: Training for Line Staff in Juvenile Detention and Corrections; Marketing the Conditions of Confinement Study; Conditions of Confinement Follow-Up—Performance Standards; Telecommunications Assistance; and Training and Technical Support for State and Local Jurisdiction Teams to Focus on Juvenile Corrections and Detention Crowding.

Response: The final program plan contains each of the aforementioned initiatives.

Comment: A respondent expressed strong support for the Yale Child Study Center/New Haven Department of Police Service Child-Centered Community-Policing" Program.

Response: OJJDP recognizes the potential value of the Child-Centered Community-Policing Program model developed by the Yale mental health professionals in collaboration with the New Haven Police Department. Funding will be provided for replication of the Yale/New Haven model in other jurisdictions.

Comment: Eight comments were received indicating specific or general support for a National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center. One of the respondents, while expressing support, cautioned against possible overlap between activities of the Center, other grantees/contractors, and OJJDP staff.

Response: The Office proposes to support the development of a Center that will eliminate, rather than create, duplication of effort by addressing training/technical assistance tasks and areas beyond the normal scope of coverage by individual grantees or contractors. Multi-disciplinary programs and training of trainers programs are examples of projects to be undertaken by the center.

Comment: Three comments were submitted recommending OJJDP support for juvenile restitution programs in the context of the currently funded Balanced and Restorative Justice Project. One respondent suggested an increased allocation for this continuation project, and two suggested restoration of the funding level established prior to a 50% budget reduction imposed on the project in Fiscal Year 1993.

Response: OJJDP supports the Balanced and Restorative Justice Project. The proposed Fiscal Year 1994 funding for this project reflects the projected third year funding level and restoration of 50% of the amount by which the funding level was reduced in Fiscal Year 1993.

Comment: A comment was received advising against the expenditure of OJJDP funds to address the violence content in mass media. Another respondent suggested that OJJDP include partnership opportunities with community-based organizations as part of the requirements for any proposed Media Violence program. A third respondent recommended that the Media Violence program develop information for parents, teachers groups, youth serving organizations, youth groups and community organizations about the relationship between media violence and aggressive behavior, and that seed-money grants be awarded.

Response: While OJJDP disagrees with the first respondent, no funding related to media violence reduction is included in the final program plan. This is due principally to the limited budget of OJJDP and the fact that a variety of agencies and organizations are examining this issue. Partnerships with community-based organizations are anticipated as a part of any future OJJDP Media Violence program initiative. The anticipated program approach to Media Violence would have provided for development and dissemination of user-friendly information, to the groups identified, on the relationship between media violence and aggressive behavior of children.

Comment: A respondent supported the Professional Development for Youth Workers Program, recommending that training of youth workers should be an OJJDP priority and urging that existing training programs offered by community-based youth serving organizations be used, and that these organizations be involved in development of curricula for several program settings. This respondent also encouraged OJJDP to utilize the resources of existing community-based agencies in enhancing safety of children through sub-contracts with community-based organizations for after-school activities.

Response: The Professional Development for Youth Workers Program is completing its second year of funding. OJJDP anticipates testing the curriculum in several community-based settings. A broad base of community-based youth serving organizations have been involved in the implementation of this program from the outset. The curriculum has been developed with their assistance through an advisory committee, working groups, and using a survey of needs and training programs conducted during the first year of implementation. In response to the suggestion that community-based youth serving organizations be used on a contractual basis to provide safe havens for school children, the National School Safety Center is not tasked to provide such services. The Center provides training and technical assistance to local schools and school districts to assist them to formulate plans and support activities that enhance school safety.

Comment: A respondent supported OJJDP's continued support for the National Network of Children's Advocacy Centers, urging a focus on child sexual-assault-focused models in the program "Models of Effective Court Based Service Delivery to Children and Their Families".

Response: OJJDP appreciates support for the National Network of Children's Advocacy Centers training program. We

have passed this suggestion along to the Network for their consideration.

Comment: A commentor was concerned that no support for "dissertation programs" was included in the Plan. This respondent noted that such grants encourage graduate students to pursue research in the area of juvenile justice. In addition, it was pointed out that a considerable amount of in-kind contributions are provided by universities for these types of projects.

Response: In past years, OJJDP has provided limited funds for Graduate and Summer Research Fellowships. However, this is not a priority area for Fiscal Year 1994. The National Institute of Justice (NIJ) provides Research Fellowship opportunities, including juvenile justice research. The National Criminal Justice Reference Service (NCJRS) 1–800–851–3420 will provide NIJ's FY 94–95 Program Plan upon request.

Comment: One commentor praised the nature of the comprehensive Program Plan and commended the five key principals as outlined in the Comprehensive Strategy section. The respondent suggested that OJJDP clearly state that secure facilities must be used when necessary to assure public safety.

Response: OJJDP's *A Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* clearly states the need to provide secure facilities in order to protect the public safety.

Comment: One commentor expressed support for the Field Initiated Research Program and looks forward to reviewing the results of the research.

Response: The innovative research applications submitted for the Field Initiated Research Program have historically produced projects or relevant research topics that would not otherwise be addressed.

Comment: Another respondent expressed support for the Field Initiated Research Program, violence studies and the female offenders project, but believes that these programs should receive greater funding levels.

Response: OJJDP agrees that the programs should receive greater funding. However, due to funding constraints, expansion is not possible at this time.

Comment: One respondent expressed concern that most of the program funds for Fiscal Year 1994 has either already been allocated, or the allocation is geared toward governmental agencies that already exist. This respondent felt that collaborative programming that include technical assistance from governmental agencies to non-profit service providers who are already working with youth is the solution to programs for at-risk youth who feel alienated.

Response: OJJDP believes there are adequate opportunities for non-profit community-based organizations to compete for available new program funds. OJJDP has always supported collaborative efforts between public and private agencies. Training and technical assistance support for public and private non-profit agencies have been included in the program plan.

Comment: Twelve respondents expressed support to the proposed program "To Promote Alternative Programs for Juvenile Female Offenders." The respondents represented a broad range of professionals, including detention administrators, juvenile court service officials, youth service workers, members of major youth related associations, and community-based program youth care givers and administrators. The respondents viewed the program as a needed first step in addressing the special needs of females in the juvenile system. Several expressed concern that the requirements (planning, initial development and implementation) for such a comprehensive service program could be accomplished within the designated time and budget. OJJDP was urged to define the at-risk female population to be served and to expand the funding period and increase the allocation. One respondent more narrowly questioned the benefits of OJJDP's coordination with the Bureau of Prisons and the Women's Bureau, Department of Labor to female adolescents in the juvenile system.

Response: OJJDP recognizes the importance of a program to address the unique needs of females in the juvenile justice system. As an increasing number of females are entering the juvenile justice system, the Fiscal Year 1994 program will address the needs of adjudicated female juvenile offenders. OJJDP agrees that coordination with the Bureau of Prisons and the Women's Bureau, Department of Labor, may not enable the program to reach the targeted population. Unfortunately, due to budget constraints the allocation has been reduced to $200,000 with two sites funded up to $100,000 to conduct planning and developmental activities for an innovative program to provide alternative services for females in the juvenile justice system.

Comment: One respondent expressed concern that support for mental health programs in the juvenile justice system was inadequate.

Response: OJJDP recognizes the need to improve mental health services for juveniles. In FY94, it will provide technical assistance monies for seven states to develop comprehensive, coordinated and collaborative strategic plans for addressing the mental health needs of persons within the justice system. It will also convene a meeting of national and state leaders to determine what steps should be taken to encourage States to assess their current practices with juveniles and move toward collaborative planning with mental health and other social services. OJJDP recognizes that the $100,000 allocated will have a limited impact and is moving ahead with plans in FY 95 to co-sponsor other federal initiatives in this area with the Center for Mental Health Services (HHS, SAMSA the Office of Special Education Programs (OSEP) in the Department of Education.

Comment: A respondent would prefer that OJJDP shift its emphasis toward funding direct service programs whose success could be evaluated and disseminated for replication. The respondent would like to see additional funds allocated for program development.

Response: OJJDP would like to support more direct service programs. Some of the new and continuation programs will support direct services and others in the early stages of development would lead to direct service initiatives. One such program is the Serious and Violent Offender Program which currently funds two sites to conduct planning and program development. This program development effort is being supported by a grant to the National Council and Crime and Delinquency (NCCD), which has identified several promising programs that can be adapted and developed in new sites. OJJDP also funds Title V—Incentive Grants for Local Delinquency Prevention Programs through the States to local units of government to support direct service delinquency prevention. In Fiscal Year 1994, $13 million was appropriated for this program.

Comment: A respondent expressed concern that the Integrated Gang Program may not focus on smaller communities.

Response: The limited funds for the Integrated Gang Program will be focused on both chronic and emerging gang cities. OJJDP is still working on the details of the program design. OJJDP appreciates the respondents concern with regard to gangs in smaller cities and will take this into consideration in developing the guideline.

Comment: A respondent representing five pilot states funded to address the issue of minority over-representation in

secure confinement facilities commented that the Program Plan did not take into account research findings when identifying activities appropriate for the minority over-representation initiative. The respondent suggest additional criteria for selecting programs for funding.

Response: OJJDP will give the suggested criteria serious consideration in drafting the program announcement.

Comments: One respondent expressed concern regarding OJJDP's support for bootcamp programs, asserting a lack of evidence of positive effects.

Response: Interest in the use of bootcamp programs for the prevention and treatment of juvenile delinquency continues to increase. In September 1991, three pilot projects were funded by OJJDP and are currently participating in a process and impact evaluation. Preliminary results should be available in early 1995 and the scheduled completion of the study is early 1996. This evaluation report will be published and OJJDP will use the information in making determinations regarding future program efforts.

Comment: Four respondents expressed support for family strengthening programs. The respondents recommended that OJJDP in finalizing family strengthening guidelines for Fiscal Year 1994. OJJDP consider: (1) Increasing the number of language-minority organizations and cities with significant minority-language populations that receive funding; (2) including state agencies that are serving disadvantaged and high-risk non-English speaking families; (3) encouraging competitive proposals offering programs focused on children at risk as a result of divorce; (4) inviting proposals that seek to reduce risks of children of divorced families by addressing the judicial process; (5) assisting research and demonstration programs that utilize mediation and other therapeutic approaches with families and in divorces involving underage children; and (6) "comprehensive family strengthening programs" focusing on family violence.

Response: OJJDP will consider these constructive recommendations in developing a program strategy in support of family strengthening. As a result of required redirection of funding initially set aside for family strengthening initiatives, OJJDP will be unable to support the development of new programs in this area. The Office will encourage existing programs to enhance family-strengthening components during Fiscal Year 1994 and target the development of new family strengthening programs for Fiscal Year 1995.

Comment: A respondent questioned the adequacy of studying the process by which male minority youth enter the juvenile justice system as a means of addressing the critical issue of disproportionate minority representation. The respondent recommended review of our child-rearing, educational, and socialization processes.

Response: It is essential to understand the factors that influence delinquent behavior. The importance of the family and core social institutions in preventing delinquency lies at the heart of OJJDP's Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders. In Fiscal Year 1994, under Title V, $13 million was appropriated for planning and implementing programs that enhance protective factors against delinquent behavior at key points during a youth's development. OJJDP is committed to reducing disproportionate minority confinement. States are required under the Formula Grants Program to determine the extent of this overrepresentation to design strategies to reduce the problem where it exists. In Fiscal Year 1994, $600,000 will be made available to States for demonstration projects that will reduce overrepresentation of juveniles in secure detention or correctional facilities.

Comment: A respondent expressed a concern that the program plan does not provide funding for innovative community rehabilitation and aftercare programs.

Response: The plan includes funds for new community-based alternatives program. Communities refocusing their resources to address serious, violent and chronic juvenile offenders will be assisted to develop and implement programs that combine accountability with treatment and rehabilitative services. A special emphasis has been placed on promoting alternative programs for female offenders. Funds have been allocated to continue support for an intensive community-based aftercare program.

Comment: A respondent recommended support for delinquency prevention and intervention programs in rural areas.

Response: Rural areas are eligible to apply for funding under OJJDP's Title V Delinquency Prevention Program. Under Title V, $13 million will be awarded to the States on a formula basis and States will subgrant through a competitive process. To be eligible to apply for Title V funding a locality must: (1) Receive a certification of compliance with the JJDP Act Formula Grants mandates from the State Advisory Group; (2) convene or designate a prevention policy board, (3) submit a three-year comprehensive delinquency prevention plan.

Comment: One respondent expressed concern about a lack of focus given on vocational education and training.

Response: Vocational training and education is a key component of successful juvenile justice programs. Accordingly, it is built in as a vital component of several OJJDP initiatives. The Serious, Violent, and Chronic Juvenile Offender Treatment Program which supports implementation of a comprehensive continuum of care for juvenile offenders includes vocational training and education. The Intensive Community-Based Aftercare Demonstration Program places a heavy emphasis on job training and placement. Vocational education and training is the key component of the Department of Justice and the Department of Interior's joint Youth Environmental Service Program for juvenile offenders, which supports environmental conservation work programs on Federal lands.

Comment: A respondent urged OJJDP to continue its concern with substance abusing youth in the juvenile justice system.

Response: Several OJJDP programs have substance abuse treatment as key components. The Native American Alternative Community-Based Program includes substance abuse treatment. The Serious, Violent, and Chronic Juvenile Offender Program which supports implementation of a comprehensive continuum of care for juvenile offenders includes substance abuse identification and treatment as key program components. The Youth Environmental Service Program, a joint initiative of the Departments of Justice and Interior includes a substance abuse counseling component.

Comment: One correspondent noted the lengthy interval between planning, training, and implementation in Title V.

Response: Title V of the Juvenile Justice and Delinquency Prevention Act requires that a three-year comprehensive plan establish the foundation for a community's strategy for delinquency prevention. This is essential to ensuring that programs and activities target the root causes of delinquency. Many communities already have such a planning process in place.

In those communities where such a planning process is just beginning training will be provided. While Title V requires approval of a local three-year plan prior to funding, other sources of funds are available to meet a locality's needs in the interim. Formula Grants

under Title II provide a means for a State to meet these needs as part of its plan.

Comment: A respondent recommends that the matching requirement provide a decreasing level of Federal support as programs demonstrate their effectiveness in prevention.

Response: Title V requires that units of local government or the State provide a 50 percent match of the amount of the grant, including in-kind contributions. This provision provides flexibility between the State and the units of local government in determining the source of the match, provided that the match requirement does not exceed 50 percent for any unit of local government.

Comment: A correspondent believes preference should be accorded applicants reflecting regional coordination.

Response: Each State determines the approach it deems appropriate for its governmental structure. Combinations of units of local government are eligible to apply for Title V funds.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 94–16996 Filed 07–13–94; 8:45 am]

BILLING CODE 4410–18–P

federal register

Thursday
July 14, 1994

Part III

Department of Education

Fund for Innovation in Education: Innovation in Education Program—Model Content Standards for English and Economics; proposed priorities for Fiscal Year 1995; Notice

DEPARTMENT OF EDUCATION

Fund for Innovation in Education: Innovation in Education Program—Model Content Standards for English and Economics

AGENCY: Department of Education.

ACTION: Notice of Proposed Priorities for Fiscal Year 1995.

SUMMARY: The Secretary proposes absolute priorities under the Fund for Innovation in Education Program as currently authorized or the successor program as it will be established with the reauthorization of the Elementary and Secondary Education Act. The Secretary takes this action to focus Federal financial assistance on the development of content standards—broad descriptions of the knowledge and skills students should acquire in particular subject areas—as the starting point for nationwide systemic education reform. The priorities will guide projects in developing model content standards in English and in Economics for grades K–12.

DATES: Comments must be received on or before August 15, 1994.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Joseph Conaty, U.S. Department of Education, 555 New Jersey Avenue, N.W., room 610d, Washington, DC 20208–5648. Comments on this notice may also be sent to the Department of Education at the appropriate Internet electronic mail address:
English__comments@inet.ed.gov or
Economics__comments@inet.ed.gov.

FOR FURTHER INFORMATION CONTACT: Joseph Conaty, U.S. Department of Education, 555 New Jersey Avenue, NW., room 610d, Washington, DC 20208–5648. Telephone: (202) 219–2079. Internet electronic mail address: Priorities__Questions@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Dual Information Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Goals 2000: Educate America Act will improve performance for *all* students. The Secretary believes that the development of model content standards in critical subject areas is a useful first step in nationwide systemic education reform. The priorities in this notice support the development of model content standards in English and in Economics and will assist the States in the development of their State content standards as the basis for State systemic reform.

National organizations have developed content standards in mathematics and the arts. The Department of Education is supporting other projects to develop model content standards for science, foreign language, civics, history, and geography. Certain States have already developed related materials in one or more of these subjects that provide guidelines to local schools and districts for the content of what should be taught.

The Secretary believes that a broad, collaborative process is necessary to achieve consensus on what children should know in the content area. Entities or consortia of entities, such as State education agencies (SEA's), local education agencies (LEA's), institutions of higher education, professional associations, private schools, and other public and private agencies, organizations and institutions may apply for funding to support a project in one or both, separately, of the disciplines cited in the proposed priorities. In developing model content standards, projects must draw on relevant work of national and international efforts, educational associations and organizations, and State and local educational agencies. Projects must be designed to reflect the best available knowledge about how students learn and how content can best be taught. Projects also must be designed to reach broad consensus through the participation of all interested parties: Classroom teachers, university and school-based content specialists; State and local school administrators; representatives of private schools; specialists in teacher education; representatives of State legislators, Governor's offices, State and local boards of education; representatives of business, labor, industry, the community at large; parents, and others, such as experts in the field of educating children with special needs.

The Secretary proposes these priorities under the Fund for Innovation in Education (FIE) program. FIE is currently authorized by the Elementary and Secondary Education Act (ESEA) of 1965. It is anticipated that Congress will reauthorize the ESEA in the near future. The Secretary does not expect the FIE program as reauthorized to differ in any substantive way that would preclude the Secretary from establishing these proposed priorities under the newly authorized program.

The Secretary will announce final priorities in a notice in the **Federal Register**. Final priorities will be determined after public comments on this notice are reviewed. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities or funding projects to support these priorities, subject to meeting applicable rule-making requirements.

Note: This notice of proposed priorities does *not* solicit applications. A notice inviting applications under these priorities will be published concurrent with or following publication of the notice of final priority.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet one of the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities:

Absolute Priority 1—Model Content Standards for English

Absolute Priority 2—Model Content Standards for Economics

To meet either one of these two priorities, an application must be for a project in which the applicant, working alone or in collaboration with other entities of its own choice, develops challenging model content standards, kindergarten through grade 12 (K–12), to facilitate State and local construction of content standards and related programs for teacher education, certification, professional development and assessment of student achievement. Each project must carry out all of the following activities:

(a) Design model content standards to serve as the foundation for coherent curricula carefully designed to ensure that all children study challenging subject material in every grade, K–12. The standards must be set forth in a written document that indicates what children should know at certain benchmarks, such as at grades 4, 8, and 12.

(b) Develop and implement a strategy for building a broad consensus by involving classroom teachers, university and school-based content specialists in English or Economics, experts in the education of children with disabilities and other special needs; State and local school administrators, representatives of private schools, specialists in teacher education, representatives of the State legislature, the Governor's office, State and local boards of education; representatives of business, labor,

industry, the community at large, parents, and others, as appropriate.

(c) Demonstrate that the standards will be grounded in current research and relevant prior work including efforts of educational associations and organizations, extant State and local content standards, and others.

(d) Establish an advisory council composed of members that represent the broad constituencies associated with the given subject matter competence.

(e) Produce a series of draft documents for review and approval by the advisory council.

(f) Conduct public hearings to critique draft documents.

(g) Provide the Secretary with a copy of the project performance report conducted under 34 CFR 75.590.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 610d, 555 New Jersey Avenue, NW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 3151.

(Catalog of Federal Domestic Assistance Number 84.215K, Fund for Innovation in Education)

Dated: July 8, 1994.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 94–17019 Filed 7–13–94; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
July 14, 1994

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Funding Availability (NOFA) for the Section 8 Set-Aside for Homeless Veterans With Severe Psychiatric or Substance Abuse Disorders; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3770; FR–3714–N–01]

Notice of Funding Availability (NOFA) for Fiscal Year 1994, for the Section 8 Set-Aside for Homeless Veterans With Severe Psychiatric or Substance Abuse Disorders

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA) for Fiscal Year (FY) 1994.

SUMMARY: This notice announces the availability of $18.4 million in FY 1994 budget authority (approximately 700 units) for a national competition established by the Department of Housing and Urban Development (HUD) and the Department of Veterans Affairs (VA) to award funding under the section 8 rental voucher program for homeless veterans with severe psychiatric or substance abuse disorders. This notice invites public housing agencies and Indian housing authorities, hereinafter collectively referred to as housing agencies (HAs), in conjunction with eligible VA Medical Centers (see Attachment 1) to submit applications.

This NOFA contains information for the applicants regarding the allocation of rental voucher budget authority, the application process, including the application requirements and the deadline for filing applications, the selection criteria and the application rating, ranking, and selection process.

DATES: The due date for submission of applications in response to this NOFA is August 29, 1994. Application forms may be obtained from the local HUD State and Area Offices/Native American Programs Office. Applications must be received in the local HUD State and Area Offices/Native American Programs Office on the due date by 3 p.m. local time. The local HUD State and Area Offices/Native American Programs Offices are the official place of receipt for all applications. At the time, or immediately following the submission of the application to the HUD State or Area Office/Native American Programs Office, the HA also must submit a copy of the application for funding under this NOFA to the following address: U.S. Department of Housing and Urban Development, Mr. Gerald J. Benoit, Director, Operations Branch, Rental Assistance Division, Room 4220, 451 Seventh Street, SW., Washington, DC 20410.

The above-stated application deadline for submission of completed applications to the HUD State or Area Office/Native American Programs Office is firm as to date and hour. In the interest of fairness to all competing HAs, the Department will treat as ineligible for consideration any application that is not received before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept applications submitted via facsimile (FAX) transmission.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Branch, Rental Assistance Division, Office of Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW. Washington, DC 20410–8000, telephone number (202) 708–0477. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. OMB has approved the section 8 information collection requirements under the assigned control number 2577–0169.

I. Purpose and Substantive Description

(A) Background

The HUD-Veterans Affairs Supportive Housing (HUD–VASH) program for homeless veterans with severe psychiatric or substance abuse disorders is a national initiative of HUD and VA. Under this initiative, VA ongoing case management, health and other supportive services will be made available for the term of the Section 8 funding at selected sites to the participants in the HUD–VASH program. The VA services and HUD rental assistance will support community-based initiatives to provide rental assistance, and comprehensive health and other supportive services to homeless veterans suffering from complex, often chronic, health, mental health and substance abuse problems. The supportive services will be delivered in conjunction with permanent, affordable housing.

The goal of the HUD–VASH initiative is to show that appropriate health and other supportive services combined with decent, safe, sanitary, and affordable housing, can help homeless veterans with severe psychiatric or substance abuse disorders lead healthy, productive lives in the community, and exit from homelessness. This initiative also promotes the expansion of permanent housing options for these individuals.

The HUD–VASH initiative is an expansion of previous demonstration programs on behalf of homeless veterans or mentally ill persons, including VA's Health Care for Homeless Veterans (HCHV) and Domiciliary Care for the Homeless Veterans (DCHV) programs and the HUD/Robert Wood Johnson Program for the Chronically Mentally Ill.

The HUD–VASH initiative combines Section 8 rental voucher assistance provided by HUD to selected HAs with case management and clinical services provided by VA at its medical centers. Under this initiative, VA will identify homeless veterans with severe psychiatric or substance abuse disorders through outreach efforts. The selected veterans will receive treatment and be medically stabilized, prior to issuance of the rental assistance. VA will work with HA staff to help veterans locate suitable private market rental units where the veterans can be assisted under the rental assistance program. VA will continue to provide case management services, outpatient health services, hospitalization and other assistance on a regular basis, as needed. Veterans involved in this program will continue in the prescribed treatment programs after they have leased units under the rental assistance program.

This announcement invites HAs who currently administer a housing program in areas where eligible VA sites are located to submit applications for rental voucher funding under this initiative. The rating of Selection Criteria 2, 3, 4, and 6 will be made by VA and based on information available from VA's Northeast Program Evaluation Center (NEPEC) and includes data regularly submitted by VA Medical Centers in the annual Progress Reports for the HCHV and the DCHV programs.

(B) Allocation Amounts

Of the amounts made available by the VA, HUD-Independent Agencies Appropriations Act for FY 1994, up to $18.4 million of budget authority for the rental voucher program is set-aside for the HUD–VASH program. This amount will support approximately 700 rental vouchers. Each HA may apply for funding for at least 25 rental vouchers but not more than 50 rental vouchers

per VA Medical Center. An applicant may apply for as many as 50 rental vouchers if VA Medical Centers commit in a letter to the HA that the VA Medical Center will provide two professional, full-time equivalent employees for case management services. An applicant may apply for 25 rental vouchers if VA Medical Centers commit in a letter to the HA that the VA Medical Center will provide one professional, full-time equivalent employee for case management services.

(C) Eligibility

The eligible VA Medical Centers are listed in Attachment 1 to this NOFA. The eligible HAs are those which are currently administering a Section 8 rental assistance program within the catchment area for the eligible VA Medical Centers. Only one HA per VA Medical Center may apply for funding, but an HA may apply for rental vouchers for more than one eligible VA Medical Center if there are multiple VA Medical Centers within the HA's jurisdiction. Each HA may apply for a maximum of 50 rental vouchers per VA Medical Center as discussed in Section II(B) of this NOFA.

(D) Family Self-Sufficiency Program

Unless specifically exempted by HUD, any rental voucher or rental certificate funding reserved in FY 94 (except funding for renewals or amendments) will be used to establish the minimum size of a PHA's FSS program.

(E) Guidelines

The rental assistance provided under the HUD–VASH initiative will enable very low-income, homeless veterans with severe psychiatric or substance abuse disorders to live in decent, safe and sanitary housing. The amount of the rental assistance is generally the difference between the applicable payment standard of the HA for the appropriate size unit and 30 percent of the family's adjusted income. The rental assistance allows an individual to be assisted in a standard rental unit of his or her choice. If the individual subsequently moves to a different unit, the individual can continue to receive the rental assistance. Funding for five years of rental assistance will be provided by HUD to the HA in support of the HUD–VASH program. HAs and local VA Medical Centers will need to work together throughout the course of this initiative to achieve the objectives of the program.

(1) VA Medical Center Responsibilities

VA Medical Center responsibilities include:

(a) Screening of the homeless veterans on the HA's Section 8 waiting list to determine whether these veterans meet the HUD–VASH set-aside participation criteria established by the VA national office, and if there are an insufficient number of applicants on the HA waiting list, referring homeless veterans to the HA;

(b) Providing treatment and supportive services to potential HUD–VASH participants prior to the HA issuance of rental assistance;

(c) Providing housing search assistance to HUD–VASH participants;

(d) Identifying the social service and medical needs of HUD–VASH participants and providing regular ongoing case management, outpatient health services, hospitalization and other supportive services as needed throughout the five year term of the Section 8 funding; and

(e) Maintaining records and providing information for evaluation purposes, as required by HUD or VA.

(2) Veteran Eligibility

In order to be certified to be eligible for rental assistance under this initiative, a veteran must:

(a) Have been contacted by the VA homeless program while living in a shelter or on the street;

(b) Have a severe psychiatric or substance abuse disorder as determined by the VA Medical Center;

(c) Have received treatment and have been medically stabilized; and

(d) Agree to participate in the clinical program offered by the VA Medical Center's specialized homeless program.

Preferences will be given to veterans who have been homeless for 30 days or more.

(3) HA Responsibilities

An HA's responsibilities include: (a) Reviewing its Section 8 waiting list and identifying homeless veterans to be referred to the VA Medical Centers for a determination of whether the veterans meet the HUD–VASH participation criteria;

(b) Determining the Section 8 eligibility of homeless veterans referred by the VA Medical Center;

(c) Amending its administrative plan and equal opportunity housing plan to provide for a preference for homeless veterans certified by the VA Medical Center for participation in the HUD–VASH program in a number equal to the number of rental vouchers provided under this NOFA;

(d) Maintaining records and providing information for evaluation purposes, as required by HUD or VA; and

(e) Administering the Section 8 rental assistance programs in accordance with HUD regulations and requirements.

(4) Section 8 Rental Voucher Assistance

The HUD–VASH initiative provides assistance under the section 8 rental voucher program. HAs must administer this demonstration program in accordance with HUD's regulations governing the section 8 rental voucher program, codified at 24 CFR part 887. The HA may issue a rental certificate instead of a rental voucher to an individual selected to participate in the HUD–VASH initiative if the individual requests a rental certificate and the HA has one available. If section 8 assistance for a participant under this demonstration terminates during the five-year term of the ACC for the section 8 rental vouchers provided under this demonstration, the rental assistance must be reissued to another eligible veteran.

II. Application Process

(A) Selection Criteria/Ranking Factors

To provide each applicant HA with a fair opportunity to receive an award of rental vouchers for the HUD–VASH program during FY 1994, HUD will use the eight selection criteria listed below to rate all applications found acceptable for further processing.

(1) Selection Criterion 1: HA Administrative Capability (40 points)—

(a) Description: Overall HA administrative capability in the Rental Voucher, Rental Certificate, and Moderate Rehabilitation Programs is either excellent or good. Administrative Capability is evidenced by factors such as leasing rates and correct administration of housing quality standards (HQS), compliance with the portability requirements for rental vouchers and rental certificates, compliance with Fair Housing and Equal Opportunity program requirements, assistance payment computation, timely submission of budgets and financial statements, and rent reasonableness requirements. For purposes of this NOFA, an HA administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program will not be rated on the administration of its Public or Indian Housing Program. If an HA is not administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program, HUD will rate HA administration of the Public or Indian Housing Program. If an HA is not administering a Rental Voucher, Rental Certificate, Moderate Rehabilitation, Public Housing or Indian Housing

Program, HUD will assess the administrative capability of the HA based on such factors as experience of staff, support of the HA by the local government, and the HA's administrative experience with non-HUD housing programs.

(b) Rating and Assessment: (i) HUD review of HA Operations—

• 8 Points—Assign 8 points if HA has no review findings outstanding, or all review findings have been corrected, for HUD HA management reviews, Fair Housing & Equal Opportunity reviews, or Inspector General audits as of the deadline date for submission of applications under this NOFA.

• 5 Points—Assign 5 points if HA has less than five review findings outstanding and all findings are being addressed.

• 2 Points—Assign 2 points if HA has five or more review findings outstanding and all findings are being addressed.

• 0 Points—Assign 0 points if HA has any review findings outstanding and the findings are not being addressed.

(ii) Compliance with Section 8 Portability rules:

• 8 Points—Assign 8 points if HA is in compliance with all provisions of the portability rules.

• 5 Points—Assign 5 points if HA is in general compliance with portability rules, but has some minor compliance issues.

• 2 Points—Assign 2 points if HA has some major compliance issues under portability which are being addressed.

• 0 Points—Assign 0 points if HA is not in compliance with portability rules and issues are not being addressed.

(iii) Housing Quality Standards (HQS) Inspections:

• 8 Points—Assign 8 points if HA had more than 95% of its units pass HQS inspections by HUD at the last review or HUD is aware of actions taken by the HA to improve the number of units that pass HQS inspections to 95% or more.

• 6 Points—Assign 6 points if HA had more than 90% of its units pass HQS inspections by HUD at the last review, or HUD is aware of actions taken by the HA to improve the number of units that pass HQS inspections to 90% or more.

• 4 Points—Assign 4 points if HA had more than 85% of its units pass HQS inspections by HUD at the last review, or HUD is aware of actions taken by the HA to improve the number of units that pass HQS inspections to 85% or more.

• 2 Points—Assign 2 points if HA had more than 80% of its units pass HQS inspections by HUD at the last review, or HUD is aware of actions taken by the HA to improve the number of units that pass HQS inspections to 80% or more.

• 0 Points—Assign 0 points if HA had 80% or less of its units pass HQS inspections by HUD at the last review and HUD is *not* aware of actions taken by the HA to improve the number of units that pass HQS inspections to 80% or more.

(iv) Percentage of Units Leased as of September 30, 1993. HUD staff should use the percentage of units under ACC for a period of one year leased for the tenant-based rental assistance program administered by an HA. HUD may use a report on leasing for another period if the September 30, 1993, report is not reflective of HA performance.

• 8 Points—Assign 8 points if HA had 98% or more of its rental certificates and rental vouchers under lease.

• 6 Points—Assign 6 points if HA had 96% or more of its rental certificates and rental vouchers under lease.

• 4 Points—Assign 4 points if HA had 94% or more of its rental certificates and rental vouchers under lease.

• 2 Points—Assign 2 points if HA had 90% or more of its rental certificates and rental vouchers under lease.

• 0 Points—Assign 0 points if HA had less than 90% of its rental certificates and rental vouchers under lease.

(v) Timely Submission of HA Budget and Financial Statements to HUD.

• 8 Points—Assign 8 points if the HA submitted both its most recent fiscal year Section 8 budget at least 30 days prior to the start of the HA fiscal year and its year-end Section 8 annual financial statements within the required 45 days of the end of the HA's fiscal year.

• 4 Points—Assign 4 points if the HA submitted either its most recent fiscal year budget at least 30 days prior to the start of the HA's fiscal year or its year-end Section 8 annual financial statements within the required 45 days of the end of the HA fiscal year.

• 0 Points—Assign 0 points if the HA is unable to document the timely submission of the budget and financial statements.

(2) Selection Criterion 2: Appropriateness of Population Served by VA Medical Center (10 points).

(a) Description: The VA Medical Center has shown its ability to target specialized homeless program resources for veterans who are homeless (i.e., living in homeless shelters or outdoors at the time of initial program assessment).

(b) Rating: 10 points. The proportion of all homeless veterans served by the VA Medical Center is in the higher twenty-fifth percentile for all program sites as rated by VA's NEPEC.

5 Points—The proportion of all homeless veterans served by the VA Medical Center is in the higher fiftieth percentile for all program sites as rated by VA's NEPEC.

0 Points—If neither of the above statements apply, assign 0 points.

(3) Selection Criterion 3: Outreach efforts of the VA Medical Center (10 points).

(a) Description: The VA Medical Center has adhered to the program principles as evidenced by outreach efforts in the homeless programs it currently administers.

(b) Rating: 10 points. The proportion of homeless veterans served who were contacted through outreach at healthcare for homeless veterans (HCHV) sites or entered the program from the community at DCHV sites is in the higher twenty-fifth percentile for all program sites as rated by VA's NEPEC.

5 Points—The proportion of homeless veterans served who were contacted through outreach (at HCHV sites) or entered the program from the community (at DCHV sites) is in the higher fiftieth percentile for all program sites as rated by VA's NEPEC.

0 Points—If neither of the statements apply, assign 0 points.

(4) Selection Criterion 4: Success rate of treatment by VA Medical Center's specialized homeless program (10 points).

(a) Description: The proportion of veterans served by the VA Medical Center in a specialized homeless program which had arrangements for housing and employment at the time of discharge from contract residential care or domiciliary care.

(b) Rating: 10 points. The number of homeless veterans served in a specialized homeless program is in the higher twenty-fifth percentile for all program sites as rated by VA's NEPEC.

5 Points—The number of homeless veterans served in a specialized homeless program is in the higher fiftieth percentile for all program sites as rated by VA's NEPEC.

0 Points—If neither of the above statements apply, assign 0 points.

(5) Selection Criterion 5: The Extent of the VA Medical Center's integration of Homeless programs with other Community Programs for the Homeless (15 points).

(a) Description: Integration of the VA Medical Center's program for homeless veterans with other community programs for the homeless. The application must contain a description of such integration.

(b) Rating: 15 points. The application shows the VA Medical Center's commitment of resources to the Access to Community Care and Effective Supportive Services (ACCESS) program,

other initiatives undertaken by local coalitions for the homeless, or comparable multi-service integration initiatives on behalf of the homeless.

8 Points—The application shows the VA Medical Center's involvement in service integration through membership in local coalitions of homeless service providers and attendance of meetings of such groups, but the Center has not committed resources to the groups.

0 Points—The application does not show that the VA Medical Center cooperates with service integration activities or resource exchange.

(6) Selection Criterion 6: Need for Specialized Services for Homeless Veterans. (15 points).

(a) Description: The number of homeless veterans in the area of the VA Medical Center warrants additional resources to address the demand for services.

(b) Rating: 15 points. The number of homeless veterans who were screened by outreach clinicians of the VA Medical Center's specialized program for homeless veterans during FY 1993 was in the top twenty-fifth percentile of all program sites as rated by VA's NEPEC.

8 Points—The number of homeless veterans who were screened by outreach clinicians of the VA Medical Center's specialized program for homeless veterans during FY 1993 was in the top fiftieth percentile of all program sites as rated by VA's NEPEC.

0 Points—If neither of the above statements apply, assign 0 points.

(7) Selection Criterion 7: Efforts of HAs to Establish a Family Self-Sufficiency Program (10 point Deduction).

(a) Description: The application must describe administration of a PHA's FSS program. The description must include (1) Submission to HUD of an Action Plan, and (2) creation of a Program Coordinating Committee. If a PHA is not administering a Rental Voucher or Rental Certificate Program, the HUD State or Area Office will rate HA administration of the Public Housing FSS program, if applicable. All activities rated under this criterion must have been completed prior to the submission of an application under this NOFA. The score of the PHA application must be *reduced* if the PHA received an FSS Incentive award of Section 8 funding in FY 1992 and the PHA has failed to complete the required implementation steps as described below. Also, the score of a PHA application must be reduced if the PHA received funding in FY 1993 (unless the HUD State or Area Office granted a total exception to the FSS program requirement) and the PHA has failed to complete the required implementation steps as described below.

(b) Rating and Assessment: The HUD State or Area Office must *deduct* point values as shown below:

- 10 Point Deduction—Deduct 10 points if HA has failed to establish a Program Coordinating Committee and provide the names, duties and experience of all members to HUD (24 CFR 984.202(a) and (b)), *and* the HA has failed to submit an Action Plan to HUD within 90 days of notification by HUD of approval of the PHA's application for units under the FY 91/92 FSS incentive award competition or HUD approval of the HA's first application, commencing in FY 93, for rental certificates or rental vouchers (24 CFR 984.201(c)(1)).
- 5 Point Deduction—Deduct 5 points if the HA has failed to establish a Program Coordinating Committee and provide the names, duties and experience of all members *or* has failed to submit an Action Plan in accordance with 24 CFR 984.201(c)(1).

(8) Selection Criterion 8: Efforts of HA to Provide Area-Wide Housing Opportunities for Families (5 points).

(a) Description: Many HAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. These HAs have established cooperative agreements with other HAs or created a consortium of HAs in order to facilitate the transfer of families and their rental assistance funding between HAs. HAs have established relationships with other entities such as non-profit groups to provide families with additional counseling to increase the likelihood of a successful move by the families to low-poverty areas.

(b) Rating and Assessment: HUD will assign point values as shown below:

- 5 Points—Assign 5 points if the HA documents that it has taken steps to increase area-wide housing opportunities for families such as being a member of an established consortium of HAs including at least 50 percent of the HAs in its housing market, providing extra counseling to families, establishing a relationship with other groups including non-profit agencies, or participating in other activities that facilitate area-wide housing opportunities for families.
- 0 Points—Assign 0 points if the HA is unable to document area-wide efforts as shown in this criterion.

(B) Unacceptable Applications

To be eligible for processing, an application must be received by the HUD State or Area Office/Native American Programs Office no later than the application submission deadline date and time specified in this notice. The HUD State or Area Office/Native American Programs Office will screen all applications and notify HAs of technical deficiencies by letter. Allowable corrections relate only to technical items, as determined by HUD, which do not improve the substantive quality of the application relative to the ranking factors.

All HAs must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency. Information received after 3:00 p.m. local time on the fourteenth calendar day of the correction period will not be accepted and the application will be rejected as being incomplete.

All HAs are encouraged to review the "Checklist for Technical Requirements" provided in Section IV of this NOFA. The checklist identifies all technical requirements needed for application processing. An HA application that does not comply with the requirements of 24 CFR 887.55 (b) and this notice, including the drug-free workplace certification, and the anti-lobbying certification disclosure requirements, by the expiration of the 14-day cure period will be rejected from processing.

(a) After the 14-calendar day cure period, if any, the HUD State or Area Office will disapprove HA applications that it determines are not acceptable for processing (refer to Checklist of Technical Requirements in the Section 8 HA Application Kit available at the HUD State or Area Office/Native American Programs Office). The HUD State or Area Office/Native American Programs Office notification of rejection letter must state the basis for the decision.

(b) HUD may decide to deny processing of applications that fall into any of the following categories:

(i) The Department of Justice has brought a civil rights suit against the applicant HA and the suit is pending;

(ii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance;

(iii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with court order, or implementing a HUD approved plan or

compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has deferred application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and the Title VI regulations (24 CFR 1.8), or under section 504 of the Rehabilitation Act of 1973, as amended, and the section 504 regulations (24 CFR 8.57), or under The Americans with Disabilities Act of 1990.

(v) The HA has serious, unaddressed, outstanding Inspector General audit findings or fair housing and equal opportunity monitoring review findings or HUD State or Area Office/Native American Programs Office management review findings for one or more of its rental certificate, rental voucher, or moderate rehabilitation programs, or, in the case of an HA that is not currently administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program, for its Public Housing Program or Indian Housing Program.

(vi) The leasing rate for rental certificates and rental vouchers under ACC for at least one year is less than 85 percent.

(vii) The HA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the HA to administer an additional increment of rental vouchers.

(C) Application Processing

The HUD State or Area Office/Native American Programs Office is responsible for rating the applications for Selection Criterion 1: HA Administrative Capability, for Selection Criterion 7: Efforts of HAs to Establish a Family Self-Sufficiency Program and for Selection Criterion 8: Efforts to provide Area-wide Housing Opportunities for Families. HUD Headquarters is responsible for rating, ranking and selecting applications which will receive assistance under the HUD–VASH Program. The HUD State or Area Office/Native American Programs Office will initially screen all applications, using the "Checklist for Technical Requirements" listed in Section III of this NOFA as a guide to determine if an application is complete.

(D) Selection Process

After the HUD State or Area Office/Native American Programs Office has screened HA applications and disapproved any applications unacceptable for further processing (See Section II of this NOFA), the HUD State or Area Office/Native American Programs Office will review and rate all approvable applications for Selection Criterion 1: HA Administrative Capability, Selection Criterion 7: Efforts of HAs to Establish a Family Self-Sufficiency Program and for Selection Criterion 8: Efforts to provide Metropolitan-wide Housing Opportunities for Families only, utilizing the point assignments listed in this NOFA. All scored applications and rating sheets in each HUD State or Area Office/Native American Programs Office will be sent to the HUD Headquarters.

HUD Headquarters and the Department of Veterans Affairs will review and rate these applications for Selection Criteria 2 through 8, utilizing the point assignments listed in this NOFA. Headquarters will select the highest rated applications until the rental voucher funds are insufficient to fund the next highest rated application(s).

When remaining rental voucher funds are insufficient to fund the next highest scoring application(s) in full, HUD Headquarters may fund that application(s) to the extent of the number of rental vouchers available. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. HUD Headquarters will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

(E) Local Government Comments

The HUD State or Area Office/Native American Programs Office will obtain section 213 comments, in accordance with 24 CFR part 791, subpart C, from the unit of general local government, including an Indian tribe. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA should encourage the chief executive officer of the unit of general local government to submit a letter with the HA application commenting on the HA application in accordance with Section 213. Since HUD cannot approve an application until the 30-day comment period is closed, the Section 213 letter should not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

III. Checklist of Application Submission Requirements.

(A) Application Requirements

Each HA must submit the items identified in this section and must include the descriptions required by Selection Criteria 5, 7 and 8. All other rating criteria will be rated based on data currently available to HUD and VA.

(1) Letter From VA Medical Center

The HA application must include a letter from the Director of the VA Medical Center stating that the HA's jurisdiction to operate a rental voucher program, as identified by the HA to the Medical Center, is within the catchment area of the VA Medical Center to operate homeless programs. This letter must also include a statement that the VA Medical Center will commit a minimum of one professional, full-time equivalent (FTE) employee per each new increment of 25 rental vouchers awarded to the corresponding HA, i.e., two FTE for 50 vouchers requested. These additional FTE are necessary to provide case-management services for the homeless veterans who receive rental assistance under this HUD–VASH set-aside.

(2) Narrative on VA Medical Center's Homeless Programs

The applicants must describe the VA Medical Center's efforts to integrate its work with homeless veterans with other community programs for the homeless. Commitment of resources to the Access to Community Care and Effective Supportive Services (ACCESS) program is an example of the multi-service integration initiatives which the Medical Center must describe.

(B) Application Kit

An Application Kit, which includes Form HUD–52515, Application for Existing Housing, may be obtained from the local HUD State or Area Office/Native American Programs Office. Only an original application and one copy should be submitted; it is not necessary to submit additional copies of the application. In addition, the basic application and other required submissions are available from the HUD State or Area Office, as follows: Form HUD–52515; Certification for a Drug-Free Workplace; Text for the Certification Regarding Lobbying; and Standard Form LLL, Disclosure of Lobbying Activities.

IV. Corrections to Deficient Applications

To be eligible for processing, an application must be received by the appropriate HUD State or Area Office/

Native American Programs Office no later than the date and time specified in Section II of this NOFA. The HUD State or Area Office/Native American Programs Office will initially screen all applications and notify HAs of technical deficiencies by letter.

If an application has technical deficiencies, the HA will have 14 calendar days from the date when HUD issues written notification to submit the missing or corrected information to the HUD State or Area Office and/or Native American Programs Office. Curable technical deficiencies relate only to items that do not improve the substantive quality of the application relative to the rating factors.

All HAs must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the time in the appropriate HUD State or Area Office/Native American Programs Office), of the fourteenth calendar day of the correction period will not be accepted and the application will be rejected as incomplete. All HAs are encouraged to review the initial screening checklist provided in Section III of this notice. The checklist identifies all technical requirements needed for application processing. An HA application that does not comply with the requirements of 24 CFR 887.55(b) and this notice, including the drug-free workplace certification and the anti-lobbying certification/disclosure requirements, after the expiration of the 14-day cure period will be rejected from processing.

V. Other Matters

(A) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW, Washington, D.C. 20410.

(B) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA does not have substantial, direct effect on the States, on their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government, because this NOFA would not substantially alter the established roles of HUD, the States and local governments, including HAs.

(C) Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

(D) Accountability in the Provision of HUD Assistance

HUD has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 16, 1992, HUD published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

(1) Documentation and Public Access

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(2) Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(E) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

(F) Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the

number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Any questions concerning the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815 (voice/TDD). This is not a toll-free number. Forms necessary for compliance with the rule may be obtained from the local HUD office.

(G) Prohibition Against Advance Information on Funding Decisions

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 is codified at 24 CFR part 4, and was recently amended by an interim rule published in the Federal Register on August 4, 1992 (57 FR 34246). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics, (202) 708–3815 (voice/TDD). (This is not a toll-free number.)

Dated: June 29, 1994.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

Checklist for Technical Requirements

The following checklist specifies the required information which must be submitted in the joint application. It is recommended, but not required, that the application contain a narrative explaining how the application meets the selection criteria.

Initial Screening Checklist

HA		
Yes	No	
☐	☐	1. The application contains a cover letter stating the *total* number of rental vouchers requested in the application and indicates whether the applicant is willing to accept a reduced number and the minimum number of units the applicant is willing to accept.
☐	☐	2. The application includes form HUD 52515 and the average adjusted monthly income (see section H of HUD 52515) by bedroom size for which the HA has submitted an application.
☐	☐	3. The application demonstrates that the applicant qualifies as an HA and is legally qualified and authorized to participate in the rental assistance programs for the area in which the program is to be carried out. Such demonstration includes (i) The relevant enabling legislation, (ii) any rules and regulations adopted or to be adopted by the agency to govern its operations, and (iii) a supporting opinion from the agency counsel. If such documents are currently on file in the HUD State or Area Office, they do not have to be resubmitted.
☐	☐	4. The application includes a statement that the housing quality standards to be used in the operation of the program will be as set forth in 24 CFR 887.251 or that variations in the Acceptability Criteria are proposed. In the latter case, each proposed variation shall be specified and justified.
☐	☐	5. The application contains the HA schedule of leasing which must provide for the expeditious leasing of units. In developing the schedule, an HA must specify the number of units that are expected to be leased at the end of each three-month interval. The schedule must project lease-up by eligible individuals within twelve months or sooner after execution of the ACC by HUD.

Requirement for Drug-Free Workplace Certification, Anti-Lobbying Certification and Disclosure Statement

HA		
Yes	No	
☐	☐	6. The application meets HUD's drug-free workplace requirement set out at 24 CFR part 24, subpart F. (The application contains an executed Certification for a Drug-Free Workplace.)
☐	☐	7. The application meets HUD's regulations regarding anti-lobbying set out at 24 CFR part 87. The anti-lobbying requirements apply to applications that, if approved, would result in the HA obtaining more than $100,000 in budget authority. To comply, HAs must submit an Anti-Lobbying Certification [Attachment 4] and if warranted, a Disclosure of Lobbying Activities.
☐	☐	8. The application includes a description of the VA Medical Center's integration of homeless programs with other community programs for the homeless.
☐	☐	9. The application includes a description of the efforts of the HA to establish an FSS program and to provide area-wide housing opportunities for families.
☐	☐	10. The application includes a letter from the VA Medical Center that states the HA's jurisdiction, as identified to the VA Medical Center by the HA, to operate a rental voucher program is within the catchment area of the VA Medical Center and the VA Medical Center commits to provide additional FTE employee for case-management services.

List of Eligible VA Medical Centers

FY 1993 HUD-VASH Notice of Fund Availability

1. Allen Park, MI
2. Anchorage, AK
3. Albany, NY
4. American Lake, WA
5. Atlanta, GA
6. Augusta, GA
7. Baltimore, MD
8. Bath, NY
9. Bay Pines, FL
10. Bedford, MA
11. Biloxi, MS
12. Birmingham, AL
13. Boston, MA
14. Brockton, MA
15. Bronx, NY
16. Brooklyn, NY
17. Buffalo, NY
18. Butler, PA
19. Canandaigua, NY
20. Charleston, SC
21. Cheyenne, WY
22. Chicago (West Side), IL
23. Cincinnati, OH
24. Cleveland, OH
25. Coatesville, PA
26. Dallas, TX
27. Dayton, OH
28. Denver, CO
29. Dublin, GA
30. Des Moines, IA
31. East Orange, NJ
32. Fargo, ND
33. Hampton, VA
34. Hines, IL (Chicago)
35. Hot Springs, SD
36. Houston, TX
37. Huntington, WV
38. Indianapolis, IN
39. Kansas City, MO
40. Leavenworth, KS
41. Lebanon, PA
42. Little Rock, AR
43. Loma Linda, CA
44. Long Beach, CA
45. Los Angeles, CA
46. Louisville, KY
47. Lyons, NJ
48. Martinsburg, WV
49. Miami, FL
50. Milwaukee, WI
51. Minneapolis, MN
52. Montrose, NY
53. Mountain Home, TN
54. Nashville, TN
55. New Orleans, LA
56. New York, NY
57. North Chicago, IL
58. Oklahoma City, OK
59. Palo Alto, CA
60. Perry Point, MD
61. Philadelphia, PA
62. Phoenix, AZ
63. Pittsburgh, PA
64. Portland, OR
65. Prescott, AZ
66. Providence, RI
67. Roseburg, OR
68. Salisbury, NC
69. Salt Lake City, UT
70. San Antonio, TX
71. San Diego, CA
72. San Francisco, CA
73. St. Louis, MO
74. Seattle, WA
75. Syracuse, NY
76. Tampa, FL
77. Toledo, OH
78. Tomah, WA
79. Tucson, AZ
80. Tuskegee, AL
81. Walla Walla, WA
82. Washington, DC
83. West Haven, CT
84. West Los Angeles, CA
85. White City, OR
86. Wilkes-Barre, PA
87. Lebanon, PA

[FR Doc. 94–17029 Filed 7–13–94; 8:45 am]

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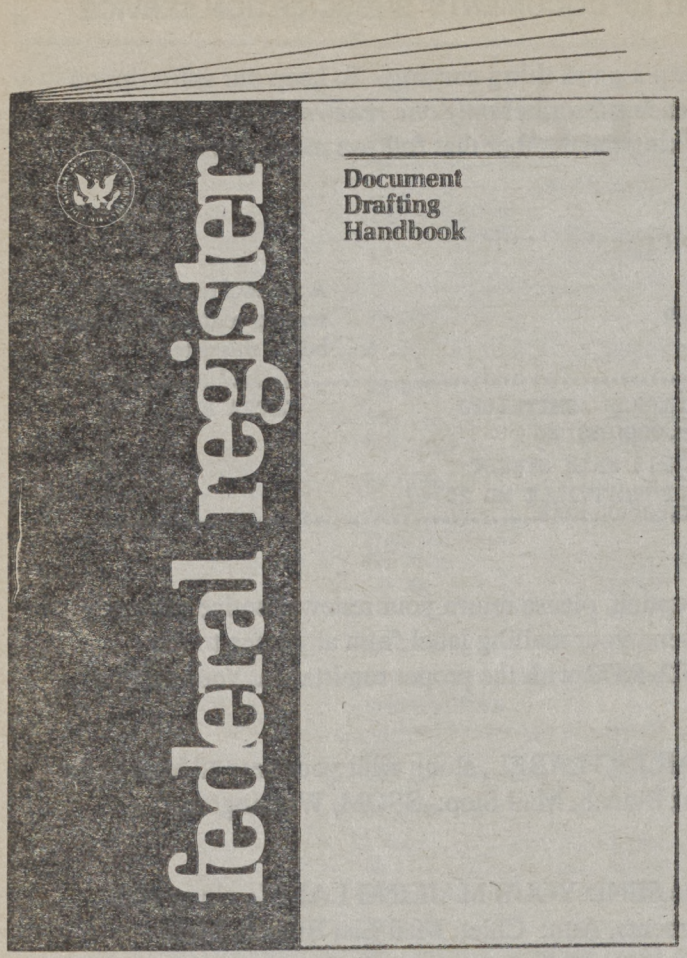

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