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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 94–034–2]

Pink Bollworm Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document makes final an interim rule that amended the pink bollworm regulations by removing Craighead, Cross, Greene, Monroe, Poinsett, and St. Francis Counties in Arkansas, Concordia Parish in Louisiana, and Washington County in Mississippi from the list of suppressive areas, and removing Louisiana and Mississippi from the list of States quarantined because of the pink bollworm. The interim rule was necessary to relieve restrictions on the interstate movement of regulated articles from certain previously regulated areas.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Sidney E. Cousins, Senior Operations Officer, Plant Protection and Quarantine, APHIS, USDA, room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on May 31, 1994 (59 FR 27965–27966, Docket No. 94–034–1), we amended the pink bollworm regulations in 7 CFR part 301 by removing Craighead, Cross, Greene, Monroe, Poinsett, and St. Francis Counties in Arkansas; Concordia Parish in Louisiana and Washington County in Mississippi from the list of suppressive areas in § 301.52–2a. We also stated that the interim rule would remove Louisiana and Mississippi from the list of States quarantined to prevent the spread of the pink bollworm since there would not be any areas in those States regulated because of the pink bollworm. We stated that change would affect § 301.52–2a; it should have stated it would affect § 301.52(a). However, we inadvertently left that action out of the amendatory section of the interim rule. This final rule corrects that omission.

Comments on the interim rule were required to be received on or before August 1, 1994. We did not receive any comments by that date. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, the interim rule that amended 7 CFR 301.52–2a and that was published at 59 FR 27965–27966 on May 31, 1994, is adopted as a final rule with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.52, paragraph (a), the words "Louisiana, Mississippi," are removed.

Done in Washington, DC, this 6th day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–22495 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 945

[Docket No. FV94–945–2FR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Irish Potatoes; Modification of Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies the minimum size requirements for all varieties of potatoes, except round reds, grown in certain designated counties in Idaho, and Malheur County, Oregon, and for imported long type potatoes. Currently, the minimum size requirement for all varieties, except round reds, is 2 inches in diameter, or 4 ounces in weight. This rule specifies that, in addition, at least 40 percent of the potatoes in each lot, by weight, must be 5 ounces or heavier. Requiring handlers to ship heavier potatoes should correct a marketing problem by providing the heavier potatoes demanded by the market and increase returns to producers and handlers. As provided under the Agricultural Marketing Agreement Act of 1937, the changes will also apply to imported potatoes.

EFFECTIVE DATE: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724 or Fax (503) 326–7440; or Valerie L. Emmer, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 205–2829 or Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 945 [7 CFR part 945], as amended, hereinafter referred to as the "order," regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. The order is effective under the Agricultural Marketing Agreement Act

of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the "Act."

This final rule, which also affects the import requirements for long type Irish potatoes, is also issued pursuant to section 8e of the Act. The provisions of section 8e and the potato import regulation are discussed later in this final rule.

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

This final has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This 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) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his 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 not filed later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 60 handlers of Idaho-Eastern Oregon potatoes that are subject to regulation under the order, and approximately 2,000 producers in the production area. In addition, at least 75 importers of Irish potatoes are subject to import regulations and will be affected by this rule. Small agricultural service firms, which include handlers of Idaho-Eastern Oregon potatoes, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A majority of these handlers and producers may be classified as small entities. The majority of the importers of potatoes may also be classified as small entities.

This rule amends paragraph (a)(2)(ii) of § 945.341 Handling regulation of the order's rules and regulations, and is based on a unanimous recommendation made by the Idaho-Eastern Oregon Potato Committee (committee), the agency responsible for local administration of the order, at its June 7, 1994, public meeting. The committee's recommended revision is authorized pursuant to §§ 945.51 and 945.52 of the order.

Quality assurance is very important to the Idaho-Eastern Oregon potato industry. Providing the public with acceptable quality produce which is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. The committee reports that potato size is important to buyers.

For several decades, the minimum size requirement for all varieties of Idaho-Oregon potatoes, except round reds, has been 2 inches in diameter, or 4 ounces in weight. However, the committee reports that the industry has been losing its share of the potato market, because the market in recent years has been demanding potatoes larger than this minimum size. Consumers now expect some baker size potatoes in the packages they buy. In spite of an industry campaign to encourage handlers to voluntarily ship larger potatoes, a number of handlers have continued to ship potatoes that barely meet the minimum size requirement, depressing the price for other potatoes. These potatoes are generally shipped in consumer packs (e.g., 5- or 10-pound bags) or in 100-pound sacks for later repackaging into consumer packs.

These shipments have resulted in disappointment by buyers and consumers in recent years, hurting the quality image of Idaho-Eastern Oregon potatoes, reducing repeat purchases and overall sales volume, and resulting in declines in prices, which has hurt the overall sales volume.

To better meet market demand regarding the size of potatoes, the committee recommended an additional requirement that at least 40 percent of the potatoes in each lot must weigh at least 5 ounces. It is anticipated that requiring handlers to ship such heavier potatoes will enable the industry to regain its lost share of the market and increase returns to producers and handlers.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements, subject to concurrence by the U.S. Trade Representative. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in more direct competition with the imported commodity. Imports, then must meet the quality standards set for the particular area.

In the case of potatoes, the current import regulation [7 CFR 980.1] specifies that import requirements for long type potatoes be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, during each month of the marketing year. While no changes are required in the language of section 980.1, imports of long type potatoes would have to meet the increased minimum weight requirements proposed herein.

Section 945.341(i) *Applicability to imports* is being removed from the handling regulations. That paragraph states the same information that is contained in section 980.1 of the import regulations. Since the same information applicable to imported potatoes is contained in the import regulations, paragraph (i) in the domestic handling regulations is being deleted to eliminate duplication or confusion.

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

The proposed rule concerning this action was published in the **Federal Register** on August 9, 1994 [59 FR 40477]. Comments on the proposed rule were invited from interested persons until August 24, 1994. No comments were received.

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

In accordance with section 8e of the Act, the United States Trade

Representative has concurred with the issuance of this final rule.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action was unanimously recommended by the Committee; (2) the new shipping season for the 1994–95 crop of Russet Burbanks began September 1, 1994, and this rule should be effective promptly to cover as many potatoes of the 1994–95 crop as possible; and (3) the proposed rule provided a 15-day comment period and no comments were received.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 945 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 945.341 is amended by removing paragraph (1) and revising paragraph (a)(2)(ii) to read as follows:

§ 945.341 Handling regulation.

* * * * *

(a) * * *

(2) * * *

(ii) *All other varieties.* 2 inches minimum diameter, or 4 ounces minimum weight: *Provided,* That at least 40 percent of the potatoes in each lot shall be 5 ounces or heavier.

* * * * *

Dated: September 8, 1994.

Eric M. Forman,

Director, Fruit and Vegetable Division.

[FR Doc. 94–22612 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–02–P

Rural Electrification Administration

7 CFR Part 1700

General Information; Delegation of Authority

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends its Delegation of Authority to add the authority to the Regional and Power Supply Directors to cancel or endorse due to payment on borrowers' notes which have been paid in full in connection with a discounted prepayment made under the REA electric program. These delegations and other minor technical corrections are being made to clarify the delegations of authority and further delegate authority downward.

EFFECTIVE DATE: This rule is effective September 12, 1994.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Program Support Staff, Rural Electrification Administration, Room 2234–S, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1500, Telephone: (202) 720–0736.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act Certification

The Administrator of REA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

National Environmental Policy Act Certification

The Administrator of REA has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The programs described by this final rule are listed in the 1991 Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees; No. 10.851, Rural Telephone Loans and Loan Guarantees; No. 10.852, Rural Telephone Bank Loans; and No. 10.854, Rural Economic Development Loans and Grants. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule; (2) will not have any retroactive effect; and (3) will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultant. A Notice of Final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA electric loans and loan guarantees from coverage under this Order.

Information Collection and Recordkeeping Requirements

This final rule contains no information collection or recordkeeping provisions requiring the Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

This final rule revises and reflects the current organizational structure of REA and methods of by which its functions are channeled. Accordingly, since this action is a "* * * rule of the agency organization, procedure, or practice * * *" this rule is being issued as a final rule without providing the public with an opportunity to comment.

List of Subjects in 7 CFR Part 1700

Electric power, Freedom of information, Loan programs—communication, Loan programs—energy, Organization and functions (Government agencies), Rural areas, Telephone.

For the reasons set out in the preamble, REA hereby amends 7 CFR chapter XVII as follows:

PART 1700—GENERAL INFORMATION

1. The authority citation for 7 CFR part 1700 continues to read as follows:

Authority: 7 U.S.C. 901 et seq.; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary of Agriculture for Small Community and Rural Development, 7 CFR 2.72; 7 U.S.C. 1921 et seq.; 5 U.S.C. 301, 552; 7 CFR 1.1–1.16.

Subpart D—Delegations of Authority; General

2. The second sentence of § 1700.41 is revised to read as follows:

§ 1700.41 Presons serving in acting capactities.

* * * If an incumbent of a position to whom delegations are made in subparts

D through L of this part is absent or is unable to carry out such delegations, the person designated authority to act for the incumbent shall exercise the authority conferred by such delegations.

* * *

Subpart E—Delegations of Authority; Agency Issuances and Certain Correspondence

§ 1700.73 [Amended]

3. In § 1700.73, remove paragraph (c)(3), and redesignate paragraph (c)(4) as paragraph (c)(3).

Subpart I—Delegations of Authority; Electric Program

4. Section 1700.124 is amended by adding paragraph (b)(10) to read as follows:

§ 1700.124 Regional Directors.

* * * * *

(b) * * *

(10) Cancellation or endorsement due to payment on borrowers' notes which have been paid in full in connection with a prepayment made under the provisions of 7 CFR part 1786, subpart F.

* * * * *

5. Section 1700.127 is amended by adding paragraph (b)(10) to read as follows:

§ 1700.127 Director—Power Supply Division.

* * * * *

(b) * * *

(10) Cancellation or endorsement due to payment on borrower's notes which have been paid in full in connection with a prepayment made under the provisions of 7 CFR part 1786, subpart F.

* * * * *

Subpart J—Delegations of Authority; Telephone Program

6. Section 1700.145 is amended by removing paragraph (d)(12), and redesignating paragraphs (d)(13), (d)(14), and (d)(15) as paragraphs (d)(12), (d)(13), and (d)(14), and by adding a new paragraph (c)(8) to read as follows:

§ 1700.145 Regional Directors.

* * * * *

(c) * * *

(8) Complete releases of lien and satisfaction when a borrower has paid in full its indebtedness.

* * * * *

§ 1700.146 [Amended]

7. Section 1700.146(c) is amended by removing from the text the term "§ 1700.148" and adding in its place "§ 1700.148 (a) and (b)".

8. Section 1700.147(c) is amended by removing from the text the term "§ 1700.148" and adding in its place "§ 1700.148(c)", by revising paragraph (b)(5), by removing the term "and" from the end of paragraph (b)(6), by removing the period from the end of paragraph (b)(7) and by adding a semicolon in its place and adding the term "and" after the semicolon, and by adding a new paragraph (b)(8) to read as follows:

§ 1700.147 Chiefs, Regional Operations Branches—Telephone.

* * * * *

(b) * * *

(5) Borrowers' lease agreements;

* * * * *

(8) Management and operating agreements. When the borrowers involved are in more than one region, both chiefs must approve.

* * * * *

Dated: September 1, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–22317 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–15–P

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 93–110–2]

Importation of Horses; Quarantine Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations concerning the importation of horses by adding Bosnia and Herzegovina, Croatia, Finland, Guinea-Bissau, the Member States of the European Union, Slovenia, The Former Yugoslav Republic of Macedonia, and the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia) to the list of countries where contagious equine metritis (CEM) exists, and by adding Oman, Qatar, and the United Arab Emirates to the list of countries considered to be affected with African horse sickness (AHS). Outbreaks of CEM, a highly transmissible venereal disease, have been reported in Bosnia and Herzegovina, Croatia, Finland, Guinea-Bissau, Slovenia, The Former Yugoslav Republic of Macedonia, and the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia). The Member States of the European Union either are affected with CEM or trade horses freely with other Member States that are affected with CEM, without testing the horses for the disease. Oman, Qatar, and the United Arab Emirates trade horses freely with other countries where AHS, a fatal viral disease, exists. The interim rule imposed prohibitions or restrictions on the importation of horses that have been in these countries to protect horses in the United States from CEM and AHS. Neither disease is known to exist in the United States.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Bowling, Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 766, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8170.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on May 13, 1994 (59 FR 24886–24889, Docket No. 93–110–1), we amended the regulations in 9 CFR part 92 concerning the importation of horses by adding Bosnia and Herzegovina, Croatia, Finland, Guinea-Bissau, the Member States of the European Union, Slovenia, The Former Yugoslav Republic of Macedonia, and the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia) to the list of countries where contagious equine metritis exists. The interim rule also added Oman, Qatar, and the United Arab Emirates to the list of countries considered to be affected with African horse sickness.

Comments on the interim rule were required to be received on or before July 12, 1994. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 92

Animal disease, Imports, Livestock, Poultry and poultry products,

Quarantine, Reporting and recordkeeping requirements.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 92.301 and 92.308 and that was published at 59 FR 24886–24889 on May 13, 1994.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 6th day of September 1994.

Terry E. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–22496 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 618

RIN 3052–AB51

Loan Policies and Operations; General Provisions; Collateral Evaluation Requirements, Actions on Applications, Review of Credit Decisions, and Releasing Information

AGENCY: Farm Credit Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts interim regulations that amend FCA regulations relating to collateral evaluation requirements for Farm Credit System (FCS or System) institutions engaged in lending or leasing. The FCA Board also requests comments on these regulations. The amendments respond to issues raised by regulatory revisions recently adopted by the other Federal financial institutions' regulatory agencies (Federal regulatory agencies),[1] comments received in response to the FCA's published request for "regulatory burden" comments (58 FR 34003, June 23, 1993), and amendments made to regulations of the Board of Governors of the Federal Reserve (Regulation B) interpreting the Equal Credit Opportunity Act (ECOA).[2]

DATES: The regulations shall become effective October 31, 1994, or upon the expiration of 30 days after publication during which either or both Houses of Congress are in session, whichever is later. Written comments must be submitted on or before October 10, 1994. Notice of the effective date will be published in the **Federal Register.**

ADDRESSES: Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

James M. Morris, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. General

The FCA Board adopted final collateral evaluation regulations on November 12, 1992. The regulations were published in the **Federal Register** on November 20, 1992 (57 FR 54683), and became effective March 1, 1993. The regulations addressed the System's collateral evaluation practices and procedures, including the need for: (1) Consistent methodology; (2) independence and controls; and (3) consistent educational and qualification requirements. The regulations set basic requirements for real property appraisals, including the use of State licensed and/or certified appraisers, functional independence, and compliance with Uniform Standards of Professional Appraisal Practices (USPAP). The real property appraisal requirements adopted were similar to the requirements of the other Federal regulatory agencies.

The objective of the present amendments is to provide additional flexibility in appraisal and independence requirements, without jeopardizing the overall integrity or enforceability of the FCA's collateral evaluation regulations. By providing additional flexibility in the use of State-sanctioned appraisers and relief from the more stringent real estate appraisal requirements, the FCA addresses regulatory burden concerns.

The amendments are being adopted as interim regulations with a delayed effective date and request for comments in order to provide interested parties an opportunity to comment on the regulations. However, the FCA believes adopting the regulations in final is required to provide System institutions with the necessary guidance to address revisions to their collateral evaluation requirements and necessary staffing needs. The regulatory revisions also establish requirements that are similar to the requirements recently adopted by the Federal regulatory agencies.

The FCA adopted, on May 5, 1994, a "no action" position relative to the System institutions' compliance with certain real estate appraisal requirements in response to the then-pending regulatory revisions by the Federal regulatory agencies. The FCA's "no action" position was intended to serve as a temporary means of eliminating any competitive disadvantage suffered by System institutions. However, the "no action" position provides more flexibility than the FCA would consider a prudent long-term regulatory position. Therefore, these regulatory revisions are intended to eliminate any competitive disadvantage for the System institutions and establish the necessary guidance and parameters for the System's collateral evaluation practices and procedures.

These revisions to the FCA's collateral evaluation regulations only address the issues associated with the real estate appraisal requirements and do not lessen the overall requirements that have been established for the basic collateral evaluation requirements or the collateral valuation process. The FCA Board is aware of the System's concern about informational requirements for small loans. The FCA has received comments requesting consideration of guidance for "minimum information" loan programs (including financial reporting and collateral evaluation information) and related underwriting standards. The FCA believes these regulations provide flexibility to accommodate minimum information loan programs. However, the FCA will consider these issues at a later date in response to the "regulatory burden"

[1] The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and the Office of Thrift Supervision (OTS).

[2] The FRB published final regulations on December 16, 1993 (58 FR 65657) implementing the Equal Credit Opportunity Act, 15 U.S.C. 1691–1691f, as amended by the FDIC Improvement Act of 1991, Pub. L. 102–242, 105 Stat. 2236.

notice published in the **Federal Register** on June 23, 1993 (58 FR 34003).

The regulations also make technical revisions to part 614, subpart L, concerning credit denials and independent appraisal requirements. Finally, the regulations reconcile FCA regulations pertaining to the release of collateral evaluation information (part 618, subpart G), with the requirements of the Equal Credit Opportunity Act as interpreted by Regulation B.[3]

II. Background

A. Bank and Thrift Federal Regulatory Agencies' Positions

On March 10, 1993, the four Federal regulatory agencies responsible for regulating banks and thrifts issued a joint interagency statement that eased certain regulatory constraints on the availability of credit for small business loans (including farm loans). The "Interagency Policy Statement on Credit Availability" ("Policy Statement") identified five areas of concern for possible regulatory and operational revisions. The five areas are: (1) Lending to small- and medium-sized businesses; (2) real estate lending and appraisals; (3) appeals of examination decisions and complaint handling; (4) examination processes and procedures; and (5) paperwork and regulatory burdens.

While FCA was not a party to the Policy Statement released on March 10, 1993, it does have real property appraisal regulations in place that are similar to those of the Federal regulatory agencies. In addition, the Policy Statement includes farming operations as a segment of the small- and medium-sized businesses to be covered by any revisions arising from the Policy Statement. Therefore, any change in the Federal regulatory agencies' real property appraisal requirements[4] will impact the FCA and the System in terms of the consistency and application of the collateral evaluation requirements.

In discussing the real estate lending and appraisal concerns, the Policy Statement asserted that "in some cases currently required real estate appraisals may not add to the safety and soundness of the credit decision. Indeed, in some cases, appraisals may prove so expensive that they make a sound small- or medium-sized business loan uneconomical."[5] President Clinton directed the Federal regulatory agencies to review the existing real property appraisal regulations and address changes as appropriate. The policy position implemented by the Federal regulatory agencies is considered to be "one aspect of an overall effort by the agencies to evaluate carefully and react appropriately to risk in the United States financial services industry. That overall effort envisions substantial oversight; in some cases, more than we have now, in areas that pose greater risk to the system. By the same token, regulatory burden will be reduced where risk is low, especially for strong, well-managed banks and thrifts * * *."[6]

The recent amendments to the other Federal regulatory agencies' real estate appraisal requirements relate to: (1) Appraisals of real estate offered as collateral for small- and medium-sized business loans; (2) appropriate appraisal threshold levels (*de minimis*); and (3) exemptions from requirements for the use of State-sanctioned appraisers. In addition, the agencies have eliminated the regulatory prohibition on the use of the Uniform Standards of Professional Appraisal Practices (USPAP) "departure provision"[7] for real property appraisals.

On June 4, 1993, the bank and thrift Federal regulatory agencies published proposed regulations (58 FR 31878) to amend the existing real property appraisal regulations. On November 10, 1993, the Federal regulatory agencies solicited additional comments on the database supporting the *de minimis* level proposal (58 FR 59688). The OCC, FDIC, FRB, and OTS subsequently adopted final regulations, which were published on June 7, 1994 (59 FR 29482). The major changes made by the final regulations are:

1. Increasing the *de minimis* level to $250,000 above which real estate appraisals using State licensed and/or certified appraisers are required.

2. Providing an exception for small- and medium-sized "business loans," including loans to entities and individuals engaged in farming enterprises, with a transaction value of $1.0 million or less.

3. Clarifying the "abundance of caution" exception.

4. Providing additional exceptions to the use of State licensed and/or certified real estate appraisers.

5. Clarifying appraisal standards and appraiser independence requirements.

B. FCA's Consideration

On June 10, 1993, the FCA Board adopted a policy position requesting public comment on possible regulatory burden issues addressing a variety of subjects. This "Regulatory Burden" statement was published on June 23, 1993 (58 FR 34003). On July 15, 1993, the FCA Board directed staff to begin considering appropriate revisions of the FCA's regulations and to monitor the progress of the regulatory revisions proposed by the Federal regulatory agencies.

The FCA received 15 comment letters in response to its regulatory burden statement from various System institutions and related parties addressing collateral evaluation related issues. The commenters, in general, supported the positions that had previously been proposed by the Federal regulatory agencies. The commenters also expressed concerns with the inclusion of specific standards of the collateral evaluation regulations (i.e., general valuation and personal property requirements) as well as specific requirements of part 614, subpart L, as they pertain to the appraisal requirements for reconsideration of loan denials. In addition, the FCA has received two additional sets of comments requesting that the FCA consider the positions proposed by the Federal regulatory agencies. The FCA responds to the comments received in Section IV, *Regulatory Revisions*, of this document.

III. Historical Analysis

The FCA has not identified any System institution that has failed solely because of poor or fraudulent appraisal activities. However, there have been institutions that have failed where poor collateral evaluation practices have been a contributing factor. A review of several of the institutions that failed during the 1980s has indicated that when such institutions failed, they exhibited characteristics such as: (1) Poor credit administration practices; (2) poor internal controls; (3) poor collateral evaluation practices; and (4)

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[3] The ECOA requires creditors to provide copies of real estate appraisals to applicants/borrowers when the appraisal covers residential collateral. The Federal Reserve Board, on December 16, 1993, published final regulation revisions (58 FR 65657) (Regulation B) implementing this requirement. Institutional compliance was required by June 14, 1994.

[4] The OCC, FDIC, FRB, and OTS jointly published revised real estate appraisal regulations on June 7, 1994 (59 FR 29482), which were effective on that date.

[5] Issue No. 2 as addressed in the "Interagency Policy Statement on Credit Availability," jointly released on March 10, 1993, by the OCC, FDIC, FRB, and the OTS.

[6] Ibid.

[7] As established by the Appraisal Standards Board of the Appraisal Foundation, the *Departure Provision of USPAP* (revised March 22, 1994, effective July 1, 1994) "permits limited departures from specific guidelines provided that the scope of the assignment is not so limited as to confuse or mislead the client or the intended users of the report; and provided that the appraiser advises the client of the limitations and that the limitations will be disclosed in the report; and the client has agreed that the limited appraisal or consulting services would be appropriate."

lack of credit expertise to handle increased debt levels and loan volume. The majority of the institutions that failed or required some form of assistance did so because of losses experienced in a few large, complex, and/or specialized loans. Poor collateral evaluation practices coupled with one or more of the other characteristics described above contributed to the problems faced by the institutions.

With the implementation of the FCA's collateral evaluation regulations, the institutions have been required to establish and implement appropriate collateral evaluation policies and procedures. Such policies and procedures are needed to address collateral evaluation independence requirements and basic evaluation and appraisal standards, as well as educational and qualification requirements. The development of such policies and procedures coupled with appropriate internal controls, credit controls, and underwriting standards (i.e., lending limits, financial and repayment analysis, loan inspections, etc.) will help ensure that past problems are not repeated.

The FCA's collateral evaluation regulations require that all System institutions will perform a collateral evaluation on all secured loans and leases. Such collateral evaluations will take the form of a basic valuation or a more detailed real estate appraisal, depending on the loan collateral and the specifics of the loan decision. The basic requirements concerning individuals responsible for collateral evaluations address minimum education, qualification, independence, and methodology standards that are either established by the regulation or must be established by the institution's policies and procedures consistent with the requirements of the regulations.

The additional requirements for completion of real estate appraisals, including the use of State-sanctioned appraisers, require a higher degree of independence and higher education and methodology standards. While higher standards are desirable, it has been argued by the System, as well as by the banking and thrift industries, that universal application of these higher standards and the additional cost involved do not add to the safety and soundness of these institutions. They argue that such higher standards add unnecessary costs and delays to the credit process without providing a corresponding reduction in loan defaults and losses in the institutions' smaller loans. The System and commercial banking institutions further argue that collateral valuations completed by qualified and experienced persons, other than State licensed or certified appraisers, are more appropriate and cost-effective for the majority of their loans and the associated risk.

The FCA believes that it is the responsibility of the institution to establish adequate policies and procedures for collateral evaluations, taking into consideration the basic requirements of the FCA's regulations. The institutions are responsible for determining the level of documentation required, depending on the size, complexity, and specialization of the loan transaction. As an example, a $50,000 loan that qualifies for an institution's minimum information program could require considerably less support, information, and documentation than a $500,000 loan to finance a large, complex dairy operation not typical of the operations within an institution's territory. Under these revised regulations, both loan transactions could qualify as collateral valuations rather than as real estate appraisals; but the complexity, size, and specialization of the loan for the dairy operation would call for a higher degree of support information development and documentation. The FCA notes that such flexibility already exists in the current regulations.

The lending institution, not the collateral evaluator, is ultimately responsible for its credit decisions. The collateral evaluation is only one of several factors that must be considered when making a credit decision. While the collateral evaluation report must be completed by a qualified individual, institutions should not assume that the acceptance of the collateral evaluation report substitutes for or completes the credit decision process. The FCA expects the institutions to consider all relevant credit factors (including the collateral evaluation) as part of the credit decision. If an institution is not comfortable with the reported value of the collateral, the institution can request another evaluation, decrease the loan amount accordingly, or, provided other statutory and regulatory requirements are satisfied, change the terms of the loan consideration in recognition of the perceived collateral risk.

An institution need not lend 85 percent of the value shown by an evaluation. Rather it should limit the credit to the amount that can be supported by consideration of the risk associated with all credit factors, including the collateral evaluation. It is important to note that as the complexity or specialization of the subject property increases, the degree of support documentation should also increase and should take into account the unique characteristics of the property that make it complex or specialized.

IV. Regulatory Revisions

Taking into account the comments received in response to the FCA's "regulatory burden" notice, the FCA staff studied FCA's current collateral evaluation regulations, compared current regulations with those of the other Federal regulatory agencies, and completed a study of data submitted to the FCA by the System. Based on its study, the FCA has adopted the following positions.

A. Increased Appraisal Thresholds

The regulations amend § 614.4260(b) to increase the existing *de minimis* levels on the appraisal requirements of the System institutions to $250,000. In addition, the threshold for the functional independence requirements would also be increased in connection with the appraisal *de minimis* level.

In 1992, the FCA completed an analysis to determine the segregation by size of the collateral securing the System's loan portfolio. The database for the analysis included a summary of the number and volume of loans within the FCS banks and associations as of December 31, 1991, that were unsecured, secured by personal property, secured by real property, or secured by a combination of security types.

The data were further segregated by loan-size categories. The FCA study has subsequently been updated to reflect the December 31, 1992, and December 31, 1993, loan-size and collateralization information.

The FCA has also recently received the results of a study it commissioned through the University of Illinois to perform independently of the development of these regulations (University of Illinois study). This study examined the loan origination volume, associated defaults, and loan losses for a specific Farm Credit district for a period between 1973 and 1992 to determine, among other things, whether large loans have a higher default rate than small loans.

In addition, the Farm Credit Council, on behalf of the System institutions, has provided additional loan-size and loan-loss data to the FCA for further consideration of the *de minimis* level. Finally, the American Bankers Association (ABA) has also completed a

survey,[8] which included a sample of 246 commercial banks of various sizes and portfolio structures. The survey stratified the loan portfolios by loan size and by loan type (construction, farmland, multifamily, and nonfarm).[9]

Upon review of the available data, the University of Illinois' study data, the System's data, and the ABA's commercial bank data, several conclusions can be drawn. Each of the studies attempted to study the correlation between loan losses and loan size. There appears to be very little difference in the average size of the ABA reported farmland loans and the System institutions' loans. The establishment of a consistent threshold level would encompass similar percentages of the farmland-based loan portfolio of System institutions and commercial banks. However, the System institutions will have a greater percentage of farmland-based loan volume that would be in excess of a $250,000 *de minimis* level. An increase in the *de minimis* level would result in the System institutions being afforded the same flexibility as the commercial lenders to perform collateral valuations rather than USPAP-based, State-sanctioned appraisals. This will result in a significant reduction in the number of loans that would require the use of a State-sanctioned appraiser[10] and thus result in cost savings to the borrowers/consumers. The System data indicate that the difference in the cost of an appraisal versus a valuation averages approximately $300 per evaluation. Such reported cost differences are consistent with cost data that have been reported by the commercial banking industry.

The FCA recognizes that increasing the *de minimis* level will reduce the number of transactions requiring a USPAP appraisal completed by a State-sanctioned appraiser. The FCA's analysis of the available data suggested that for loans in excess of $250,000, the rate of loss justifies the cost of the USPAP appraisal requirement, while for loans of less than $100,000, the cost of requiring USPAP appraisals may exceed the volume of losses. For loans in the $100,000 to $250,000 range, the data do not clearly establish that the rate of loss justifies the cost of requiring USPAP appraisals. Therefore, the FCA believes that a *de minimis* level of $250,000 is a reasonable point above which the additional appraisal requirements are justified. In addition, the FCA is comfortable that safety and soundness concerns at or below $250,000 can be adequately addressed by the collateral valuation requirements of the regulations.

B. Business Loans

The regulations amend § 614.4260(b) to provide the System institutions with a $1.0 million threshold for requiring appraisals for small- and medium-sized "business loans" where the loan repayment is not derived from the sale or cash rental of real estate.

The purpose of this exemption is to provide greater flexibility for institutions to provide credit to small- and medium-sized businesses where the owners are subject to the risk of operational losses. The exemption is not intended to ease credit requirements for real estate investors or passive landowners. A $1.0 million exemption would be consistent with the positions taken by the Federal regulatory agencies and will afford the System institutions a "level playing field" with respect to the required use of State-sanctioned appraisers. Based on FCA's analysis of the data studies, it should be noted that, in addition to the additional 15 percent (by number) of System loans exempted by the new $250,000 *de minimis* level exception, approximately an additional 5 percent of the number of loans will be exempted by the $1.0 million "business loan" exemption.

However, within this $250,000 to the $1.0 million category, an additional 25 percent of loan volume will be exempted by the new business loan exemption. These additional loans represent a significant proportion of System loan volume and arguably pose significant additional risk for System institutions. Because of this concentration, the FCA has provided additional criteria for the completion of collateral evaluations for such small- and medium-sized business loans by requiring all real estate collateral evaluations in excess of $250,000, not otherwise exempted by § 614.4260(c), to be completed in conformance with the USPAP. Such collateral evaluations of "business loans," while conforming with USPAP, will not necessitate the use of a State-sanctioned appraiser or compliance with the functional independence requirements.

While the regulations allow institutions to use either a State licensed or State certified appraiser for loan transactions under the $1.0 million level, the regulations require appraisals of real estate transactions over $1.0 million to be completed by State certified appraisers. The FCA notes that this requirement is consistent with the requirements of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (FIRREA),[11] which requires the use of a State certified appraiser for a real estate transaction appraisal of $1.0 million or more.

C. Additional Collateral

The regulations expand the exceptions for the use of State licensed and certified appraisers to include those instances where the real estate is taken as additional collateral or where the loan is supported through conclusive documentation of earnings capacity and repayment ability evidencing that the real estate is not necessary to support the loan decision.

Adoption of the additional collateral exception and clarifying the "abundance of caution" exception gives System institutions more flexibility in relying on collateral valuations of real property rather than USPAP-based State-sanctioned appraisals. However, the FCA believes that the basic collateral valuation requirements and the institutions' policies and procedures will provide sufficient analysis and detail to address any safety and soundness concerns.

D. Limit Periodic Appraisals

The regulations amend § 614.4260(c) to permit the use of collateral valuations of real estate when a subsequent transaction is related to the advancement of additional funds, a servicing action, loan reamortization, etc., provided there has been no obvious and material change in the market conditions or physical aspects of the real estate that would threaten the adequacy of the institution's real estate collateral protection after the transaction. The regulations continue to require the institutions to develop appropriate policies and procedures addressing the circumstances and frequency for the completion of real property appraisals versus collateral valuations, subject to the specific requirements of the regulation.

[8] "Commercial Real Estate Appraisal Survey"; Surveys and Statistics Division, American Bankers Association; Report of Results, June 4, 1992.

[9] The total sample of the ABA survey consisted of 9,329 banks of various sizes with 51,931 loans reported for a total sample volume of $22 billion (average size loan is $424,000, average size farmland loan is $83,900, and average commercial loan is $820,000).

[10] Under the current FCA *de minimis* level of $100,000 approximately 80 percent of the number (38 percent of the volume) of FCBs' and associations' real estate loans would be exempted. With an increase of the *de minimis* level to $250,000, 95 percent of the number of loans and 66 percent of the loan volume would be exempted from the appraisal requirements.

[11] *See* Pub. L. 101–73, § 1113, 103 Stat. 183 (1989).

This revision would provide greater flexibility to the System institutions in determining the appropriate collateral evaluation method to employ (valuation vs. appraisal) and the appropriate level of evaluator expertise required in relation to the associated credit risk. This revision would allow institutions to use collateral valuations instead of appraisals when a loan servicing action is required, a loan is being reamortized, or even when additional funds are advanced as long as the collateral risk has not materially increased. This revision would also eliminate the requirement that a new appraisal be completed if additional funds are advanced and an appraisal has not been completed within 2 years, as was previously required by the regulations.

These exemptions only address the use of real estate appraisals and are not intended to eliminate the need for a review and update of the value of the collateral through the use of a collateral valuation. The FCA's regulation (§ 614.4260(c)(5)) would require a new evaluation for reamortizations of loans if there has been a material increase in the associated risk in concert with the advancement of new funds. This position is consistent with the requirements of the Federal regulatory agencies for transactions where new funds are advanced and there has been a material increase in the associated risk. However, in addition, the FCA, based on safety and soundness concerns identified in previous System practices, has taken the position that any loan servicing action (including reamortizations, collateral releases, etc.) should be accompanied, at a minimum, by a collateral valuation that is consistent with the requirements of these regulations.

E. USPAP "Departure Provision"

The regulations amend § 614.4265(h) to remove the prohibition on the use of the USPAP "Departure Provision." The removal of the restriction will allow institutions to determine the best evaluation method to support the credit decision consistent with safe and sound lending practices that also best serves the borrower. The elimination of this restriction will also provide more flexibility for the institutions in the use of their appraiser resources by allowing State licensed and certified appraisers to complete updated appraisals and collateral valuations that would not otherwise meet the USPAP standards requirements.

The FCA and the Federal regulatory agencies originally included the restriction on the use of the "departure provision" because they were concerned that the use of the provision would result in an evaluation that is less than reliable. However, upon further discussion and clarification from the Appraisal Foundation,[12] the Federal regulatory agencies now recognize that a "departure provision" appraisal provides the basic information and valuation criteria required to ensure a reliable valuation process.[13] Therefore, the prohibition on the use of the "departure provision" has been removed.

F. Technical Amendments

The regulations make technical amendments to subpart F pertaining to issues such as an institution's review requirements for appraisals completed by other financial institutions or government agencies. The FCA has eliminated the review procedures from § 614.4255(d), because it is recognized that other U.S. Government agencies, Government-Sponsored Enterprises and/or Federally regulated financial institutions are all guided in their appraisal requirements by USPAP and FIRREA requirements, which are at least as encompassing as FCA's regulatory requirements.

In addition, the regulations make technical amendments to part 614, subpart L, concerning an institution's responsibilities for accepting an independent appraisal completed in response to a credit denial action. In addition, the regulations make changes to part 618, subpart G, concerning an institution's obligation to provide applicants with copies of collateral evaluations on residential properties as required by amended provisions of regulations implementing the Equal Credit Opportunity Act.

Commenters, responding to the FCA's "Regulatory Burden" notice, requested clarification as to the appropriateness of providing time limits on how long an applicant can delay a credit reconsideration while waiting for the completion of an independent appraisal. The FCA believes that this is a valid concern, which should be addressed by a revision to the regulation to require the completion of the evaluation within a reasonable timeframe, depending on the nature and complexity of the appraisal assignment.

The FCA has also noted that the Federal Reserve Board's amendment of Regulation B, the regulations that implement the ECOA, requires that System institutions provide copies of collateral evaluation reports, containing all pertinent information, to unsuccessful applicants for credit that would have been secured by residential real property. Therefore, the FCA's current regulations pertaining to the release of information must be revised to expressly permit the release of collateral evaluation information when required by the provisions of the ECOA and related regulations. The ECOA regulations generally require the institution, in the case of residential properties, to provide the applicant a copy of the complete evaluation report including any third-party information if it is used as part of the institution's evaluation process.

System institutions should note that, in those cases where disclosure of such collateral evaluations is required by the ECOA, there is no protection for confidential third-party information. Therefore, System institutions should avoid the use of such confidential information where disclosure is likely under the ECOA (i.e., loans secured by residential properties, including farmland loans where a dwelling is taken as part of the security). Confidential third-party information does not include information that would otherwise be publicly available (e.g., contained in the public land records).

G. Other Comments

Several commenters have expressed concerns with the level of requirements and standards for collateral valuations on real estate and, in particular, the requirements for personal property valuations and the use of the income approach for evaluations. The commenters objected to requirements they felt were not consistent with the requirements imposed by the other regulators on their regulated banking institutions.

However, the General Accounting Office (GAO) has recently recommended that the bank and thrift Federal regulatory agencies establish a set of minimum standards for real estate evaluations where the use of State-sanctioned appraisers and compliance with USPAP are not required.[14] The

[12] The Appraisal Foundation was established on November 30, 1987, by professional appraisal organizations, as a not-for-profit corporation under the laws of Illinois, in order to enhance the quality of professional appraisal practices. The USPAP standards were developed and published under the direction of the Appraisal Standards Board of the Foundation. The Foundation also consists of the Appraisal Qualifications Board, which establishes the education and qualification standards for appraisers.

[13] Appraisal Standards Board's (ASB) statement on Appraisal Standards No. 7, *Permitted Departure from Specific Guidelines for Real Property Appraisals*, was adopted by the ASB on March 22, 1994, and became effective July 1, 1994.

[14] GAO Report (GAO/GGD–94–144), May 25, 1994, *Better Guidance Is Needed For Real Estate Evaluations.*

FCA, by previously adopting and publishing the requirements of § 614.4250 of the regulations, has addressed similar concerns for the System institutions' valuation of real, personal, and intangible property in general.

In addition, the OCC has recently published proposed revisions to its lending limit regulations that would require appraisals/evaluations of collateral used to secure loans where the lender requires collateral (including personal property) to support lending in excess of the 15-percent lending limit. This position is also consistent with the regulatory standards and guidance previously established by the FCA in the collateral evaluation regulations. The FCA's willingness to adopt a 25-percent lending limit for FCBs and direct lender associations is supported by the recognition that collateral evaluation requirements serve as an essential control (58 FR 40311, July 28, 1993).

The FCA has also reviewed concerns previously expressed by the System, which pertain to the required use of the income approach for real estate evaluations in excess of the *de minimis* level (whether an appraisal is required or not). The FCA has clarified in the regulations that the income approach is one of the three prescribed methods of valuing collateral under USPAP. Therefore, whenever USPAP standards are employed the income approach must be considered. If it is not used as a valuation method, there must be an explanation of why it was not used, accompanied by the development of the initial income-producing information to support its lack of relevance as a valuation method.

In § 614.4265(d) the FCA requires the institution to develop and document, as part of the supporting information for the credit analysis, the income-producing capacity of the subject real estate as well as the operations of the business. This information may or may not be derived directly from the real estate evaluation process, but is required as part of the credit analysis to support the debt repayment analysis. Such information is intended to assist in identifying debt coverage shortages that must be addressed by other sources of income. However, the FCA strongly suggests that the income approach be used on agricultural properties where the loan transaction exceeds the $250,000 *de minimis* level.

The income analysis requirement contained in the regulation does not apply to loan transactions at the $250,000 *de minimis* level and below. However, prudent business practices may dictate the development and use of such information in a much wider range of loan transactions. The institutions have the responsibility to identify those instances where the credit risk and the associated credit decision would require the support of the income and debt coverage analysis.

V. Summary

The present revisions of the FCA collateral evaluation requirements will benefit the System institutions by allowing them to enjoy a competitive playing field with the commercial banking industry and relieving some requirements that have been identified as burdensome and unnecessary. The FCA Board believes that these revisions can be made without undermining the basic collateral evaluation requirements or jeopardizing safety and soundness. Therefore, the FCA Board is able to increase the flexibility of the regulations in order to ensure the effectiveness and efficiency of the System's collateral evaluation practices.

List of Subjects

12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For reasons stated in the preamble, parts 614 and 618 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

2. Part 614 is amended by revising subpart F to read as follows:

Subpart F—Collateral Evaluation Requirements

Sec.

614.4240 Collateral definitions.
614.4245 Collateral evaluation policies.
614.4250 Collateral evaluation standards.
614.4255 Independence requirements.
614.4260 Evaluation requirements.
614.4265 Real property evaluations.
614.4266 Personal and intangible property evaluations.
614.4267 Professional association membership; competency.

Subpart F—Collateral Evaluation Requirements

§ 614.4240 Collateral definitions.

For the purposes of this part, the following definitions shall apply:

(a) *Abundance of caution,* when used to describe decisions to require collateral, means that the collateral is taken in circumstances in which:

(1) It is not required by statute, regulation, or the institution's policies; and

(2) A prudent lender would extend credit based on a borrower's income and/or other collateral, absent the real estate, and the decision to extend credit was, in fact, based on other sources of revenue or collateral.

(b) *Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

(c) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, by professional appraisal organizations, as a not-for-profit corporation under the laws of Illinois, in order to enhance the quality of professional appraisals.

(d) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) *Business loan* means a loan or other extension of credit to any corporation, general or limited partnership, business trust, joint venture, sole proprietorship, or other business entity (including entities and individuals engaged in farming enterprises).

(f) *Cost approach* means the process by which an evaluator establishes an indicated value by measuring the current market cost to construct a reproduction of or replacement for the improvements, minus the amount of depreciation (physical deterioration, or functional and/or external obsolescence) evident in the structure from all causes, plus the market value of the land.

(g) *Evaluation* means a study of the nature, quality, or utility of, interest in, or aspects of, an asset. An evaluation may take the form of a valuation or an appraisal.

(h) *Fee appraiser* means a qualified evaluator who is not an employee of the party contracting for the completion of the evaluation and who performs an evaluation on a fee basis. For purposes of this subpart, a fee appraiser may include a staff evaluator from another Farm Credit System institution only if the employing institution is not operating under joint management with the contracting institution. In addition, for purposes of personal and intangible collateral evaluations, the term "fee appraiser" includes, but is not limited to, certified public accountants, equipment dealers, grain buyers, livestock buyers, and auctioneers.

(i) *FIRREA* means the Financial Institutions Recovery, Reform, and Enforcement Act of 1989.

(j) *Highest and best use* means the reasonable and most probable use of the property that would result in the highest market value of vacant land or improved property, as of the date of valuation; or that use, from among reasonably probable and legally alternative uses, found to be physically possible, appropriately supported, financially feasible, and which results in the highest land value.

(k) *Income capitalization approach* means the procedure that values property by measuring the present value of the expected future benefits of property ownership. This value is derived from either:

(1) Capitalizing a single year's income expectancy or an annual average of several years' income expectancies at a market-derived capitalization rate that reflects a specific income pattern, return on investment, and change in the value of the investment; or

(2) Discounting the annual cashflows for the holding period and the reversion at a specified yield rate or specified yield rates which reflect market behavior.

(l) *Market value* means the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming neither is under duress. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(m) *Personal property*, for purposes of this subpart, means all tangible and movable property not considered real property or fixtures.

(n) *Qualified evaluator* means an individual who is competent, reputable, impartial, and has demonstrated sufficient training and experience to properly evaluate property of the type that is the subject of the evaluation. For the purposes of this definition, the term "qualified evaluator" includes an appraiser or valuator.

(o) *Real estate* means an identified parcel or tract of land, including improvements, if any.

(p) *Real estate-related financial transactions* means any transaction involving:

(1) The sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

(q) *Real property* means all interests, benefits, and rights inherent in the ownership of real estate.

(r) *Sales comparison approach* means the procedure that values property by comparing the subject property to similar properties located in relatively close proximity, having similar size and utility, and having been recently sold in arm's-length transactions (comparable sales). The sales comparison approach requires the evaluator to estimate the degree of similarity and difference between the subject property and comparable sales. Such comparison shall be made on the basis of conditions of sale, financing terms, market conditions, location, physical characteristics, and income characteristics. Appropriate adjustments shall be made to the sales price of the comparable property based on the identified deficiencies or superiorities of the subject property to arrive at a probable price for which the subject property could be sold on the date of the collateral evaluation.

(s) *State certified appraiser* means any individual who has satisfied the requirements for and has been certified as a real estate appraiser by a State or territory whose requirements for certification currently meet or exceed the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. No individual shall be a State certified appraiser unless such individual has achieved a passing grade on a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI of FIRREA.

(t) *State licensed appraiser* means any individual who has satisfied the requirements for licensing and has been licensed as a real estate appraiser by a State or territory in which the licensing procedures comply with title XI of FIRREA and in which the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI of FIRREA.

(u) *Transaction value* means:

(1) For loans or other extensions of credit, the amount of the loan, loan commitment, or other extensions of credit;

(2) For sales, leases, purchases, investments in, or exchanges of real property, the market value of the property interest involved; and

(3) For the pools of loans or interests in real property, the transaction value of the individual loans or the market value of the real property interests comprising the pool.

(v) *USPAP* means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Foundation.

(w) *Valuation* means the process of estimating a defined value of an identified interest or interests in a specific asset or assets as of a given date. A valuation results from the completion of a collateral evaluation that does not require an appraisal.

§ 614.4245 Collateral evaluation policies.

(a) The board of directors of each Farm Credit System institution that engages in lending or leasing secured by collateral shall adopt well-defined and effective collateral evaluation policies and standards, that comply with the

regulations in this subpart, to ensure that collateral evaluations are:

(1) Sufficiently descriptive and detailed to provide ample support to the institution's related credit decisions;

(2) Performed based on criteria established for the purpose of determining the circumstances under which collateral evaluations will be required and when they will be required. Such criteria must, at a minimum:

(i) Establish when an institution will require a collateral appraisal completed under the USPAP rather than a collateral valuation; and

(ii) Take into account such factors as market trends, market volatility, and various types of credit, loan servicing, collection, and liquidation actions; and

(3) Completed by a qualified evaluator in an unbiased manner.

(b) The policies and standards required by this section shall, at a minimum, address the criteria outlined in §§ 614.4250 through 614.4267 of this subpart.

(c) A Federal land bank association shall, with the approval of its respective Farm Credit bank, adopt collateral evaluation policies that are consistent with the bank's policies and standards.

§ 614.4250 Collateral evaluation standards.

(a) When real, personal, or intangible property is taken as security for a loan or is the subject of a lease, an evaluation of such property shall be performed in accordance with § 614.4260 and the institutions' policies and procedures. Such a collateral evaluation shall be identified as either a collateral valuation or a collateral appraisal. Specifically, all collateral evaluations must:

(1) Value the subject property based upon market value as defined in § 614.4240(l);

(2) Be presented in a written format;

(3) Consider the purpose for which the property will be used and the property's highest and best use, if different from the intended use;

(4) Be sufficiently descriptive to enable the reader to ascertain the reasonableness of the estimated market value and the rationale for the estimate;

(5) Provide sufficient detail (including an identification and description of the property) and depth of analysis to reflect the relevant characteristics and complexity of the subject property;

(6) Analyze and report, as appropriate, for real, intangible, and/or personal property, on:

(i) The current income producing capacity of the property;

(ii) A reasonable marketing period for the property;

(iii) The current market conditions and trends that will affect projected income, to the extent such conditions will affect the value of the property;

(iv) The appropriate deductions and discounts as they would apply to the property, including but not limited to, those based on the condition of the property, as well as the specialization of the operation and property; and

(v) Potential liabilities, including those associated with any hazardous waste or other environmental concerns; and

(7) Include in the evaluation report a certification that the evaluation was not based on a requested minimum valuation or specific valuation or approval of a loan.

(b) For purposes of determining appraisal value as required in section 1.10(a) of the Act, the definition of market value and the requirements of this subpart shall apply.

§ 614.4255 Independence requirements.

(a) *Prohibitions.* For all personal and intangible property, and for all real property exempted under § 614.4260(c) of this subpart, no person may:

(1) Perform evaluations in connection with transactions in which such person has a direct or indirect interest, financial or otherwise, in the loan or subject property;

(2) As a director, vote on or approve a loan decision on which such person performed a collateral evaluation; or

(3) As a director, perform a collateral evaluation in connection with any transaction on which such person made or will be required to make a credit decision.

(b) *Officers and employees.* If the institution's internal control procedures required by § 618.8430 of this chapter include requirements for either a prior approval or post-review of credit decisions, officers and employees may:

(1) Participate in a vote or approval involving assets on which they performed a collateral evaluation; or

(2) Perform a collateral evaluation in connection with a transaction on which they have made or will be required to make a credit decision.

(c) *Real estate appraiser.* Except as provided in § 614.4260(c) of this subpart, all evaluations of real property that serve as the primary security for a loan shall be performed by a qualified real estate appraiser who has no direct or indirect interest, financial or otherwise, in the loan or subject property and is not engaged in the marketing, lending, collection, or credit decision processes of any of the following:

(1) A Farm Credit System institution making or originating the loan;

(2) A Farm Credit System institution operating under common management with the institution making or originating the loan; or

(3) A Farm Credit System institution purchasing an interest in the loan.

(d) *Fee appraisers.* Fee appraisers shall be engaged directly by the Farm Credit System institution or its agent, and shall have no direct or indirect interest, financial or otherwise, in the property or transaction. A Farm Credit System institution may accept a real estate appraisal that was prepared by an appraiser engaged directly by another Farm Credit System institution, by a United States Government agency, a Government-Sponsored Enterprise or by a financial institution subject to title XI of FIRREA.

(e) *Loan purchases.* No employee who, acting as a State licensed or State certified appraiser, performed a real estate appraisal on any collateral supporting a loan shall subsequently participate in any decision related to the loan purchase.

§ 614.4260 Evaluation requirements.

(a) *Valuation.* Valuations of personal and intangible property, as well as real property exempted under paragraph (c) of this section, shall be performed by qualified individuals who meet the established standards of this subpart and the Farm Credit System institution obtaining the collateral valuation.

(b) *Appraisal.*

(1) Appraisals for real estate-related financial transactions with transaction values of more than $250,000 shall be performed by a qualified appraiser who is a State licensed or a State certified real estate appraiser.

(2) Appraisals for real estate-related financial transactions with transaction values of more than $1,000,000 shall be performed by a qualified appraiser who is a State certified real estate appraiser.

(c) *Appraisals not required.* An appraisal performed by a State certified or State licensed appraiser is not required for any real estate-related financial transaction in which any of the following conditions are met:

(1) The transaction value is $250,000 or less;

(2) The transaction is a "business loan" as defined in § 614.4240(e) that:

(i) Has a transaction value of $1,000,000 or less; and

(ii) Is not dependent on income derived from the sale or cash rental of real estate as the primary source of repayment;

(3) A lien on real property has been taken as collateral in an abundance of caution, and the application, when evaluated on the five basic credit factors, without considering the subject real estate, would support the credit

decision that was based on other sources of repayment or collateral;

(4) A lien on real estate is not statutorily required and has been taken for purposes other than the real estate's value;

(5) Subsequent loan transactions involving an existing extension of credit, provided that either:

(i) The transaction does not involve the advancement of new loan funds other than funds necessary to cover reasonable closing costs; or

(ii) There has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the Farm Credit System institution's real estate collateral protection, even with the advancement of new loan funds;

(6) A Farm Credit System institution purchases a loan or an interest in a loan, pool of loans, or interests in real property, including mortgage-backed securities, provided that:

(i) The appraisal prepared for each loan, pooled loan, or real property interest, when originated, met the standards of this subpart, other Federal regulations adopted pursuant to FIRREA, or the requirements of the government-sponsored secondary market intermediaries under whose auspices the interest is sold; and

(ii) There has been no obvious and material change in market conditions or physical aspects of the property that would threaten the Farm Credit System institution's collateral position, or

(7) A Farm Credit System institution makes or purchases a loan secured by real estate, which loan is guaranteed by an agency of the United States Government and is supported by an appraisal that conforms to the requirements of the guaranteeing agency.

To qualify for exceptions in paragraphs (c)(1) through (c)(7) of this section from the requirements of this subpart, the institution must have documentation justifying the use of such exceptions in the applicable loan file(s). In addition, the institution must document that the repayment of a "business loan" is not dependent on income derived from the sale or cash rental of real estate.

(d) *FCA-required appraisals.* The FCA reserves the right to require an appraisal under this subpart whenever it believes it is necessary to address safety and soundness issues.

(e) *Reciprocity.* The requirements of this subpart are satisfied by the use of State certified or State licensed appraisers from any State provided that:

(1) The appraiser is qualified to perform such appraisals;

(2) The applicable Farm Credit System institution has established policies providing for such interstate appraisals; and

(3) The applicable State appraiser licensing and certification agency recognizes the certification or license of the appraiser's State of permanent certification or licensure.

§ 614.4265 Real property evaluations.

(a) Real estate shall be valued on the basis of market value.

(b) Market value shall be determined by a reasonable valuation method that:

(1) Considers the income capitalization approach, the sales comparison approach, and/or the cost approach, as appropriate, to determine market value;

(2) Explains and documents the elimination of any approach not used.

(3) Reconciles the market values of the applicable approaches; and

(c) Where real estate appraisals or real estate collateral valuations for business loans in excess of $250,000 that would not otherwise be exempted under § 614.4260(c) are required, such evaluations shall be completed in accordance with the USPAP and shall include a legal description of the subject property.

(d) At a minimum, the institution shall develop and document the evaluation of the income and debt servicing capacity for the property and operation where the transaction value exceeds $250,000 and the real estate taken as collateral:

(1) Is an integral part of and supports the principal source of loan repayment; or

(2) Is not an integral part of and does not support the principal source of loan repayment, but has demonstrable rental market appeal, is statutorily required, and fully or partially constitutes an integral part of an agricultural or aquatic operation.

(e) The income-earning and debt-servicing capacity established under paragraph (d) of this section on such properties shall be documented as part of the credit analysis for any related loan action, whether or not the income capitalization approach value is used as the basis for the market value conclusion stated in the evaluation report.

(f) Collateral closely aligned with, an integral part of, and normally sold with real estate (fixtures) may be included in the value of the real estate. All other collateral associated with the real estate, but designated as personal property, shall be evaluated as personal property in accordance with §§ 614.4250 and 614.4266.

(g) The evaluation shall properly identify all nonagricultural influences, including, but not limited to, urban development, mineral deposits, and commercial building development value, and the reasoning supporting the evaluator's highest and best-use conclusion.

(h) Where an evaluation of real property is completed by a fee appraiser, as defined in § 614.4240(g), the institution's standards shall include provisions for periodic collateral inspections performed by the institution's account officer or appropriate designee.

§ 614.4266 Personal and intangible property evaluations.

(a) Personal property and intangibles shall be valued on the basis of market value in accordance with the institution's evaluation standards and policies.

(b) Personal property evaluations shall include a source of comparisons of value (i.e., equipment dealer listings, Blue Book, market sales reports, etc.) and a description of the property being evaluated, including location of the property and, where applicable, quantity, species/variety, measure/weight, value per unit and in total, type of identification (such as brand, bill of lading, or warehouse receipt), quality, condition, and date.

(c) Evaluations of intangibles shall include a review and description of the documents supporting the property interests and the marketability of the intangible property, including applicable terms, conditions, and restrictions contained in the document that would affect the value of the property.

(d) Where an evaluation of personal or intangible property is completed by a fee appraiser, as defined in § 614.4240(g), the institution's standards shall include provisions for periodic collateral inspections and verification by the institution's account officer or appropriate designee.

When a Farm Credit System institution deems an appraisal necessary, personal or intangible property shall be appraised in accordance with procedures and standards established by the institution by individuals deemed qualified by the institution to complete the work under the USPAP Competency and Ethics Provisions.

§ 614.4267 Professional association membership; competency.

(a) *Membership in appraisal organizations.* A State certified appraiser or a State licensed appraiser

may not be excluded from consideration for an assignment for a real estate-related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) *Competency.* All staff and fee evaluators, including appraisers, performing evaluations in connection with real, personal, or intangible property taken as collateral in connection with extensions of credit must meet the qualification requirements of this subpart. However, an evaluator (as defined in § 614.4240(n)) may not be considered competent solely by virtue of being certified, licensed, or accredited. Any determination of competency shall be based on the individual's experience and educational background as they relate to the particular evaluation assignment for which such individual is being considered.

Subpart L—Actions on Applications; Review of Credit Decisions

3. Section 614.4443 is amended by revising paragraph (c) to read as follows:

§ 614.4443 Review process.

* * * * *

(c) *Independent collateral evaluations.*

(1) An applicant for a loan that has been denied may, as part of the request for a review, request an independent collateral evaluation by an independent evaluator, as defined in § 614.4440 of this subpart, of any interests in property securing the loan (other than the stock or participation certificates of the lender held by the borrower).

(2) Within 30 days after a request for a collateral evaluation, the credit review committee shall present the applicant or borrower with a list of three independent evaluators approved by the qualified lender. The borrower shall select and engage the services of an evaluator from the list to perform the collateral evaluation. The collateral evaluation must be completed within a reasonable period of time. The cost of the evaluation shall be borne by the applicant or borrower.

(3) The credit review committee shall consider the results of any such collateral evaluation in any final determination with respect to the loan or restructuring, provided the applicant's or borrower's evaluator has provided a copy of the evaluation report to the lender not less than 15 business days prior to any scheduled meeting of the credit review committee.

(4) Any such collateral evaluations that are not completed in conformance with the collateral evaluation requirements described in subpart F of this part, relative to collateral evaluation standards, independence requirements, and qualification requirements, need not be considered by the credit review committee. To facilitate the proper completion of such collateral evaluations, a copy of part 614, subpart F, shall be provided to the borrower for presentation to the borrower's evaluator, and a copy signed by the borrower's evaluator shall be a required exhibit in the subsequent evaluation report.

* * * * *

PART 618—GENERAL PROVISIONS

4. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart G—Releasing Information

5. Section 618.8320 is amended by adding a new paragraph (b)(11) to read as follows:

§ 618.8320 Data regarding borrowers and loan applicants.

* * * * *

(b) * * *

(11) Collateral evaluation reports may be released to a loan applicant, when required by the Equal Credit Opportunity Act or related regulations.

* * * * *

§ 618.8325 [Amended]

6. Section 618.8325 is amended by removing the words "appraisal" and "an appraisal" and adding in their place the words "collateral evaluation" and "a collateral evaluation" consecutively in the second and third sentences in paragraph (b).

Dated: September 1, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–22220 Filed 9–9–94; 8:45 am]

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12 CFR Part 630

RIN 3052–AB23

Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the FCA Board, adopts new final regulations governing the Farm Credit System's (FCS or System) preparation and reporting of Systemwide financial information to investors. The final rule requires that each bank of the System, the Federal Farm Credit Banks Funding Corporation (Funding Corporation), and the Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation) jointly publish periodic reports to investors and potential investors in Systemwide debt obligations and consolidated bank debt obligations of the Farm Credit System (FCS debt obligations).

The purpose of the rule is to ensure that timely and accurate Systemwide financial information continues to be disclosed to investors and the public to assist them in making informed decisions regarding FCS debt obligations and System institutions. The required report to investors must present Systemwide combined financial statements, supplemental financial statement information, and related analyses pertaining to System institutions on a combined basis. The final rule covers Systemwide financial and non-financial information now regularly disclosed by the Funding Corporation in annual and quarterly information statements and press releases.

The final regulations generally parallel the existing Farm Credit System Disclosure Program (System Disclosure Program) and should not impose any significant additional burdens on System institutions. Consistent with the System Disclosure Program, the final rule preserves the existing reporting relationship between a System bank and its related associations.

EFFECTIVE DATE: The regulations shall become effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Tong-Ching Chang, Staff Accountant, Policy Development and Planning Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4483, TDD (703) 883–4444,

or

William L. Larsen, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

Under the System Disclosure Program, the Funding Corporation, on behalf of the System, periodically distributes to investors a disclosure document containing Systemwide financial information. The System institutions that participate in the System Disclosure Program (*i.e.*, each of the System banks, the Funding Corporation, and the Financial Assistance Corporation[1]) jointly publish the Report to Investors of the Farm Credit System (FCS Report) on an annual basis. The FCS Report includes an Information Statement and a general report. The Information Statement contains combined financial statements and related analyses pertaining to all System institutions. The general report contains other information about the System, its debt obligations, and the environment in which it operates. Except for the quarter that coincides with the end of the fiscal year, System institutions also jointly publish a quarterly Information Statement. In connection with the sale of debt securities, the Funding Corporation routinely distributes the FCS Report and quarterly Information Statement to the investment dealers and dealer banks (selling group) that sell FCS debt securities. The FCA currently has no regulations that specifically govern the System's disclosure of Systemwide financial information to investors.

II. Statutory Authority and Proposed Rulemaking

Under section 5.17(a)(8) of the Farm Credit Act of 1971, as amended (1971 Act), 12 U.S.C. 2252(a)(8), the FCA is authorized to "Regulate the preparation by System institutions and the dissemination to stockholders and investors of information on the financial condition and operations of such institutions. * * *" On February 4, 1994, the FCA proposed regulations for a new part 630, Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System, to govern the System's preparation and reporting of Systemwide financial information to investors. (59 FR 5341) In general, the proposed regulations reflected the current division of responsibilities among the institutions participating in the System Disclosure Program, and included requirements for disclosures similar to those contained in the Information Statements currently published by the System. The institutions participating in the System Disclosure Program were designated as the "disclosure entities" in the proposed regulations, in recognition of their shared responsibility for disclosure of Systemwide financial information to investors and the general public.

[1] Since the board of the Funding Corporation is also the board of the Financial Assistance Corporation, the Financial Assistance Corporation's participation in the System Disclosure Program is implied.

III. Discussion of the Final Rule and Summary of Public Comments

The FCA is adopting part 630 largely as proposed. The final rule includes changes and clarifications to address comments received on the proposed rule. As in the proposed regulations, the final regulations (1) Require the System to publish annual and quarterly reports to investors; (2) delineate responsibilities relating to the preparation of the report; (3) reinforce internal controls over Systemwide financial disclosure; and (4) establish reporting standards for the report to ensure that relevant information concerning the combined financial condition and results of operations of the System is disclosed to investors and potential investors. The final rule will prevent any inconsistency between Systemwide disclosure to investors and FCA regulations governing accounting and reporting standards and individual System institution disclosure to shareholders. These new FCA regulations will apply to the information currently contained in the System's Information Statements and press releases that contain Systemwide financial information. The final rule also implements section 514 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992, Pub. L. 102–552 (1992 Act), which requires adequate disclosure to investors of financial and conflict-of-interest information.

The final regulations will ensure that timely and accurate Systemwide financial information continues to be disclosed to investors and the public to assist them in making informed decisions regarding FCS debt obligations and System institutions. This is consistent with the FCA Board's regulatory policy to "Protect the public, the investors, and the customer/shareholders of the System in an effort to create an environment whereby customer/shareholders and investors can take advantage of the System's strength and rely on its future viability with confidence." (*See* FCA Board Policy Statement on Regulatory Philosophy, 59 FR 32189, June 22, 1994)

The FCA received six comment letters on the proposed regulations during the comment period, which expired on April 20, 1994. One letter was submitted by the Farm Credit Council (FCC) on behalf of its membership. The FCC comments were the product of input from a number of sources, including System banks, the System's Accounting Standards Work Group, and the Funding Corporation. The FCC recognized and concurred with the FCA's efforts to ensure that timely and accurate Systemwide financial information continues to be disclosed to investors and potential investors in FCS debt securities. Noting the System's general support for the proposed regulations, the FCC submitted comments on several provisions of the proposed regulations in the body of its letter and provided technical comments on other provisions in an attached appendix.

The Funding Corporation, the Farm Credit Bank of Texas (FCBT), and the Farm Credit Bank of Baltimore (FCBB) each submitted a letter addressing specific issues. The Funding Corporation commented concerning its access to FCA Examination Reports of System banks and associations. The FCBT addressed the same issue in its letter. In addition, the FCBT urged that the FCA prohibit directors of System institutions from serving on the System Audit Committee. While endorsing the comments submitted by the FCC, the FCBB urged that the FCA clarify, for purposes of Systemwide disclosure, the treatment of the FCBB's wholly-owned subsidiary, the Farm Credit Finance Corporation of Puerto Rico.

The American Institute of Certified Public Accountants (AICPA) and Price Waterhouse, the external auditor currently engaged to provide an opinion on the Systemwide combined financial statements, also commented on the proposed regulations. Both of these commenters suggested that the requirements for an accountant's opinion on supplemental information be clarified. The AICPA also commented on issues concerning the definition of "material," the due dates of the reports to investors, and the requirement for filing a letter with the FCA explaining the preferability of an accounting change.

After the FCA published the proposed rule, the General Accounting Office (GAO) issued a report entitled "Farm Credit System: Repayment of Federal Assistance and Competitive Position" (GAO/GGD–94–39, dated March 10, 1994), which recommended that the FCA require the System to exclude the Farm Credit Insurance Fund (Insurance Fund) from the System's combined financial statements because of the

GAO's view that exclusion is the most appropriate accounting treatment. On May 10, 1994, the FCA responded to the GAO's recommendation in a letter to Congressional committees which described the FCA's approach to Insurance Fund reporting as reflected in this rulemaking. The final regulations require that the System prepare the Systemwide combined financial statements in accordance with generally accepted accounting principles (GAAP), provide supplemental financial statement data with and without the Insurance Fund, and give a thorough discussion and analysis of the fund in the report to investors. The FCA believes that these regulations, as adopted, will ensure that investors are provided with meaningful information regarding the Insurance Fund and the effect of the fund on the System's financial position.

Provided below are a section-by-section analysis of changes to the proposed rule and FCA responses to the comments received.

IV. Section-by-Section Analysis of Public Comments

A. Section 630.2—Definitions

1. Section 630.2(b) and (h)—Definitions of "Combined Financial Statements" and "Systemwide Combined Financial Statements"

For preparation of the Systemwide combined financial statements, the final rule requires that each bank provide the Funding Corporation with bank-only financial data as well as with combined financial data of the bank and its related associations. The FCC and the FCBB commented that the proposed regulations should be clarified to address how the consolidated financial data of a bank and its wholly-owned subsidiaries should be reported in the Systemwide disclosure.

To distinguish financial data prepared on a combined basis from that prepared on a consolidated basis, a new definition of "combined financial statements" has been added in § 630.2(b) of the final rule. The definition is added to clarify that combined financial statements are prepared by a group of affiliated entities that share the same financial interest regardless of whether any of the entities has the ability to exercise control over another. In contrast, consolidated financial statements are prepared by a parent-entity to include the financial data of subsidiaries that are under its "control."

To prevent this newly added definition of "combined financial statements" from being confused with the definition of "Systemwide combined financial statements" contained in § 630.2(g) of the proposed rule, proposed § 630.2(g) has been simplified to define "Systemwide combined financial statements" as the combined financial statements required by this part. Proposed § 630.2(g) also is redesignated as § 630.2(h). The proposed language specifying the purpose for which the Systemwide combined financial statements are prepared has been moved and combined with provisions pertinent to financial statements in § 630.20(l).

2. Proposed Definition of "Material"

Section 630.2(f) of the proposed regulations provided a definition of "material" similar to that found in Securities and Exchange Commission (SEC) Rule 405. The FCA received two comments on the proposed definition of "material." The AICPA asserted that defining "material" other than as established in accounting literature would be confusing and inconsistent if audits of the Systemwide combined financial statements are required to be performed in accordance with generally accepted auditing standards (GAAS). The AICPA recommended either deleting the proposed definition of "material" or amending it to refer to the materiality definition in GAAS or in Financial Accounting Standards Board Statement of Financial Accounting Concepts No. 2, Qualitative Characteristics of Accounting Information (FAC No. 2).

The FCA notes that the definition of "material" in the proposed rule was intended to govern information presented outside the basic financial statements.[2] Regardless of the proposed definition, the Systemwide combined financial statements required by this part are subject to materiality criteria established in GAAP. Specifically, pursuant to § 630.3(c),[3] the Systemwide combined financial statements must be prepared in accordance with the accounting and reporting standards set forth in part 621 of this chapter. Because § 621.2(g) defines the term "material" in accordance with FAC No. 2, the GAAP definition of "material" contained in part 621 of this chapter will govern the System's preparation of Systemwide combined financial statements. Consequently, materiality judgments for preparation of the Systemwide combined financial statements must be made in accordance with GAAP.

The FCC recommended that the proposed definition of "material" be expanded to recognize the different levels of reporting and disclosure responsibilities of the System banks and the Funding Corporation. The FCC suggested two separate definitions of "material." One of the suggested definitions would apply to the Banks' reporting responsibilities to the Funding Corporation and the second would apply to the Funding Corporation's disclosure responsibilities on a Systemwide basis as subject to antifraud provisions of the Federal securities laws.

Under GAAP, individual materiality judgments are made on a case-by-case basis and materiality is measured at each reporting level in light of surrounding circumstances. The GAAP position is supported by FAC No. 2 and recognizes that no general standards of materiality could be formulated to take into account all the considerations that enter into an experienced human judgment. In line with this approach to the concept of materiality, the FCA believes that it is unnecessary to include, as suggested by the FCC, two separate definitions of "material."

Materiality judgments regarding information presented outside the financial statements, while not covered by the GAAP definition, are governed by current standards of materiality under the securities laws.[4] The FCA believes that the case law standard of materiality provides sufficient guidance to the System in preparing information to be presented outside the financial statements. To avoid any confusion between the GAAP materiality standard which governs preparation of the financial statements, and the standard of materiality enunciated in the case law, which governs information presented outside of the financial statements, the proposed definition of "material" has been eliminated from the final rule.

3. Section 630.2(g)—Definition of "Report to Investors"

The FCC commented that, although the preamble clarifies that the term "report to investors" used throughout the proposed rule is intended to mean the Information Statement currently published by the Funding Corporation, confusion exists as to whether the term

[2] Information presented "outside" the basic financial statements refers to information that is not considered necessary for presentation of financial position, results of operations, or cashflows in conformity with GAAP, *e.g.*, management's discussion and analysis.

[3] Section 630.3(c) provides that "All items of essentially the same character as items required to be reported in the reports of condition and performance pursuant to part 621 of this chapter shall be prepared in accordance with the rules set forth in part 621 of this chapter."

[4] *See TSC Indus., Inc.* v. *Northway, Inc.*, 426 U.S. 438, 449 (1976) and cases following.

refers to the FCS Report or the Information Statement. Because the FCS Report currently prepared by the Funding Corporation contains certain information that is not part of the System Disclosure Program, and for which System banks are not responsible, the FCC suggested that all references to the "report to investors" in the regulation be replaced with the term "Information Statement."

The FCA does not intend to regulate the name of the report required by this part. The term "report to investors" used in the proposed rule is merely a general reference to the disclosure document required by this part. However, in response to the FCC's comment, a new definition of "report to investors" has been added as § 630.2(g) of the final rule to clarify that the term "report to investors" referred to in the regulations means "a report that presents the Systemwide combined financial statements, supplemental financial statement information, and related financial and nonfinancial information pertaining to the System required by this part." Under this provision, a document containing only information that is not required by this part and that is clearly identified as separate from the required report will not be subject to this final rule.

B. Section 630.3—Publishing and Filing the Report to Investors

1. Section 630.3(a)

The FCA received two comments on § 630.3(a), which establishes the due dates for publishing the annual and quarterly reports to investors. The FCC opined that the word "publish" in § 630.3(a) is subject to interpretation, and could mean printed, mailed, or received by the investors. The commenter suggested that the word "publish" be replaced with the phrase "make available."

Section 630.3(a) requires not only that the System "make available" the report to investors by the dates specified in § 630.3(a)(1) and (a)(2) but that the System take affirmative steps to distribute the report to investors. One such step, as noted in the rule proposal, is distribution of sufficient copies of the report to the selling group dealers for subsequent distribution to interested investors. The FCA believes that the suggested substitution of the phrase "make available" may discourage exploration of other report distribution techniques and, accordingly, has retained the word "publish" in § 630.3(a).

The AICPA also commented on § 630.3(a), suggesting that the FCA reconsider whether the due dates prescribed in § 630.3(a) provide sufficient time for preparation of the combined information from various entities within the System. The FCA believes that the due dates established in § 630.3(a) for publishing and filing an annual report within 90 days after the end of each fiscal year and a quarterly report within 60 days after the end of each reporting quarter are adequate. The 90-day requirement for publishing the annual report to investors is consistent with industry practice. The 60-day requirement for publishing the quarterly report permits the Funding Corporation to publish the report 15 days after the constituent System banks and associations have filed their quarterly reports with the FCA pursuant to part 620 of this chapter. In addition, in the event the Funding Corporation is unable to prepare and publish the report to investors because one or more banks fail to fulfill their responsibilities for providing information to the Funding Corporation in accordance with § 630.4(c), § 630.4(a)(7) authorizes the Funding Corporation to request the FCA to extend the due date for publishing the report to investors. Accordingly, the FCA has adopted the due dates established in § 630.3(a) as proposed.

2. Section 630.3(f)—Banks' Joint and Several Liability for Consolidated Bank Debt Obligations

Section 630.3(f) requires that each report to investors include a statement that Systemwide debt securities and consolidated bank debt obligations are joint and several liabilities of individual banks. The FCC questioned the statutory basis for this required statement as regards individual bank joint and several liability for consolidated bank debt obligations. The FCC requested that the FCA provide a legal analysis of the statutory basis and extend the comment period for this provision.

The FCA believes that no extensive analysis is required to justify the position that consolidated bank debt obligations are joint and several liabilities of individual banks. The basis for this disclosure is found in section 4.4 of the 1971 Act, which clearly establishes joint and several liability of all banks for consolidated and Systemwide debt regardless of the title of the 1971 Act under which the bank operates. The FCA notes that the 75-day comment period on these regulations included a 30-day extension of the original comment period and believes that another extension of the comment period is unnecessary. The FCA has adopted § 630.3(f) as proposed.

C. Section 630.4—Responsibilities for Preparing the Report to Investors

1. Section 630.4(a)(2)(ii), (a)(3), and (a)(9)—Report of Examination

Proposed § 630.4(a)(9) authorizes the Funding Corporation to make a request to the FCA regarding the content of the latest Reports of Examination of any banks and related associations if the information is necessary for preparation of the report to investors. Two System institutions—the Funding Corporation and the FCBT—commented on the proposed provision.

The Funding Corporation suggested that the regulation be expanded so that, upon its request, each bank would be required to provide the Funding Corporation with the Reports of Examination and related information for the bank and related associations. The Funding Corporation is concerned that the regulation as proposed may be interpreted to implicitly absolve a bank of its responsibility to report to the Funding Corporation any significant regulatory conditions imposed or actions taken by the FCA against the bank or its related associations.

Conversely, the FCBT supported proposed § 630.4(a)(9) as written on the basis that it maintains an appropriate balance between the confidentiality of examination reports required by § 602.205 of this chapter and the need to provide complete and accurate disclosure to investors required by the proposed rule. Section 630.4(c) sets forth the responsibilities of each bank for preparation of the report to investors. Based on § 630.4(c)(5)(i), which requires that each bank certify to the Funding Corporation that the bank has submitted all information needed for preparation of the report to investors in accordance with the instruction of the Funding Corporation, the FCBT concluded that protection of the confidentiality of examination reports will not encourage banks to avoid their primary disclosure responsibilities with respect to material matters that may be discussed in the examination report.

While the FCBT supports § 630.4(a)(9) as proposed, it commented that the phrase "if necessary" leaves doubt as to whether the Funding Corporation should request the FCA to provide information contained in the examination reports in all cases or simply in those cases where a bank does not provide information contained in the examination report to the Funding Corporation. The FCBT requested that the FCA provide a definitive and unambiguous rule regarding the obligation to furnish copies of these reports.

In response to the comments received, the FCA has revised paragraphs (a)(2)(ii), (a)(3), and (a)(9) of § 630.4 to clarify that the Funding Corporation is responsible for collecting from each disclosure entity information needed for preparation of the report to investors, including any information that is material to a single disclosure entity. Likewise, in accordance with the Funding Corporation's instructions, each bank is responsible for providing the Funding Corporation with information that is material either to the bank or, on a combined basis, to the bank and its related associations. If information necessary for preparation of a report to investors that is meaningful and not misleading is not forthcoming from a bank in accordance with the provisions of § 630.4(c), the Funding Corporation may request the FCA to provide information regarding the content of the latest Reports of Examination of any banks or related associations necessary to ensure that the information presented in the report to investors is meaningful and not misleading. The FCA will then make a determination whether to provide the Funding Corporation with relevant information contained in the Report of Examination or, if appropriate, the entire report.

The FCA is cognizant of both the Funding Corporation's desire to have direct access to Reports of Examination and the FCBT's concern with protection of the confidentiality of the Reports of Examination. The FCA does not believe that § 630.4(a)(9) would relieve a bank of its responsibility to report any significant regulatory conditions that would have a material impact on the information being presented in the report to investors. It remains the primary responsibility of each bank to provide accurate and complete information to the Funding Corporation for preparing disclosure to investors. Each bank is required to certify to this effect to the Funding Corporation.

Section 630.4(a)(9) is established to provide the Funding Corporation with a contingency source for obtaining information needed to prepare accurate and comprehensive annual and quarterly reports to investors, while maintaining the confidentiality of the Reports of Examination. However, such requests from the Funding Corporation to the FCA are expected to be rare. Also, as the FCBT noted in its comment letter, § 630.5 prohibits banks from making incomplete, inaccurate, or misleading disclosures. Failure to disclose material information would violate these regulations and subject a bank and its officers and directors to possible FCA enforcement action.

2. Sections 630.4(c)(1) and 630.20(m)(3)—Bank-Only Financial Data

Section 630.4(c)(1) requires that each bank provide the Funding Corporation with information needed for preparation of the report to investors. The FCC suggested that proposed § 630.4(c)(1) be revised to clarify that, for Systemwide disclosure, information to be provided by each bank to the Funding Corporation includes not only financial information, but nonfinancial information as well, including information covering structural changes and regulatory enforcement activity. Proposed § 630.4(c)(1) has been clarified to refer to other nonfinancial information.

The FCC also suggested that proposed §§ 630.4(c)(1) and 630.20(m)(3)(i) be revised to clarify that it is appropriate to include any wholly-owned subsidiary of a bank in the bank-only information. The FCBB submitted a separate comment in which it urged the FCA to include the FCC's suggestion in the final rule to address the treatment of the Farm Credit Finance Corporation of Puerto Rico, a wholly-owned subsidiary of the FCBB.

To address the concerns raised by the commenters regarding a bank's reporting of consolidated financial data in Systemwide disclosure, the FCA has removed the wording "bank-only" from § 630.4(c)(1) and clarified that, if a bank is required to prepare consolidated financial statements in accordance with GAAP, it is appropriate that the bank provide consolidated financial data of the bank and its consolidated subsidiaries to the Funding Corporation. Conforming changes were also made to § 630.20(m)(3) and Appendix A of the final rule.

3. Section 630.4(d)—Responsibilities of Associations

Proposed § 630.4(d) provides the banks with access to their related associations' auditors for preparation of the report to investors. The FCC commented that the banks sometimes may need to have access to others, such as legal counsel. To ensure that the banks have the ability to obtain any information necessary to accurately prepare their submission to the Funding Corporation, the FCC suggested that the regulation include a general statement that the banks may have access to any material association information. Under sections 2.2 and 2.12 of the 1971 Act, each association is subject to supervision by its related bank. Each Farm Credit Bank is responsible for preparing the combined financial statements of the bank and related associations for disclosure to shareholders pursuant to part 620 of this chapter. Part 620 of this chapter does not, however, specify how the disclosure responsibilities between banks and related associations are shared. To clarify this issue for purposes of part 630, the FCA has expanded proposed § 630.4(d) by adding a general statement in § 630.4(d)(1) of the final rule to require that each association provide its related bank with the information necessary to allow the bank to provide accurate and complete information to the Funding Corporation for preparation of the report to investors. The original text of proposed § 630.4(d) has been redesignated as § 630.4(d)(2).

D. Section 630.5—Prohibition Against Incomplete, Inaccurate, or Misleading Disclosure

The FCC suggested that the FCA clarify that § 630.5 concerning prohibition against incomplete, inaccurate, or misleading disclosure would apply only when the defective disclosure is material. Since compliance with the disclosure standards of this part is generally subject to a materiality test in any event, the FCA finds it unnecessary to add the suggested materiality language to § 630.5 and has adopted this section as proposed.

E. Section 630.6—System Audit Committee and Bank Audit Committees

1. Section 630.6(a)(2)

Under § 630.6(a)(2), officers or employees of a System institution are prohibited from serving on the System Audit Committee (SAC) because they are not independent of management. The FCBT urged the FCA to prohibit System directors from serving on the SAC due to potential conflicts of interest based on competition between System institutions.

The FCA believes that the suggested prohibition would be disruptive to the existing SAC and force the Funding Corporation to recruit SAC members from outside the System. In addition, the FCA views the FCBT's argument as relating less to conflict of interest than to concern regarding preservation of the confidentiality of information reviewed by the SAC. Under section 4.9 of the 1971 Act, directors and management of System institutions are eligible to serve on the board of the Funding Corporation. As a practical matter, any information available to SAC members is equally available to the members of

the board of the Funding Corporation. Thus, precluding System directors from serving on the SAC would not necessarily prevent confidential information from being exposed to directors of other System banks. In light of these considerations, the FCA is adopting the rule as proposed but will monitor SAC activities for apparent inappropriate use of information. Finally, the FCA notes that § 630.6(a) does not prevent the Funding Corporation board from adopting a policy to disqualify System directors from serving on the SAC.

2. Section 630.6(a)(4)(iii)

The FCC commented that the word "approve" contained in § 630.6(a)(4)(iii) of the proposed rule implies that the SAC has the authority to dictate individual bank accounting policies or that the Funding Corporation has the authority to require banks to uniformly and consistently adopt or change accounting policies. This was not the intent of the proposed rule. The primary duty of the SAC is to ensure the integrity of the report to investors jointly prepared by the Funding Corporation and System banks. The SAC is responsible for overseeing the reporting process and internal controls implemented by the Funding Corporation for preparation of the System's report to investors. To clarify that neither the SAC nor the Funding Corporation is charged with the responsibility for dictating individual banks' accounting polices, the FCA has substituted the word "review" for the word "approve" as suggested.

3. Section 630.6(a)(4)(iv)

Under proposed § 630.6(a)(4)(iv), the SAC is required to review each disclosure document containing Systemwide information prescribed in this part, including annual reports, quarterly reports, and press releases, prior to its release. The FCC commented that the SAC's responsibility should pertain only to financial information and disclosures contained in the annual information statements because the SAC generally would not have the expertise to review and evaluate nonfinancial information, such as is found in the description of business and description of debt securities. The FCC also suggested that, to facilitate timely issuance of quarterly information, the requirement for a review of each quarterly report or press release by the SAC prior to its release be eliminated.

To ensure the quality of the report to investors, the FCA believes that each annual or quarterly report should be reviewed by the SAC in its entirety. Under § 630.6(a)(2), which provides that "members shall be knowledgeable in public and corporate finance and financial reporting and disclosure," members selected to serve on the SAC should have the expertise to review the entire report to investors, including both financial and nonfinancial information. However, the FCA agrees that the essence of press releases is to provide timely release of interim information and has deleted the requirement for a review of press releases by the SAC from § 630.6(a)(4)(iv).

4. Section 630.6(a)(4)(v) and (b)(3)(ii)

The FCC suggested that the word "oversee" contained in proposed § 630.6(a)(4)(v) and (b)(3)(ii) regarding the responsibility of the SAC and the bank audit committee be replaced with the word "review" because the proposed wording implies that the audit committee would perform a management function in the System or the bank. The FCC also suggested other changes to proposed § 630.6(a)(4)(v) to avoid this implication.

The audit committee is commonly recognized as an entity established to perform an oversight function in the areas of financial reporting, internal control, and corporate governance. The word "oversee" contained in the proposed rule is consistent with the customary role of audit committees. The FCA has retained the word "oversee" in § 630.6(a)(4)(v) and (b)(3)(ii). The FCA notes that it is the responsibility of the board of each System institution to determine the steps the audit committee should perform to fulfill its oversight responsibilities. Thus, the boards of individual System institutions could charter their audit committee to review and direct management to take necessary corrective actions or merely to review and make corrective recommendations to the board.

F. Subpart B—Annual Report to Investors

1. Section 630.20(c)(2)—Description of Legal Proceedings and Enforcement Actions

The FCC suggested that the proposed § 630.20(c)(2) disclosure requirement for a summary of FCA enforcement actions against individual institutions be clarified and that any required discussion of the impact of the enforcement actions on the System's operations be linked to materiality. The FCA agrees with this suggestion and has revised the language of § 630.20(c)(2) of the final rule accordingly.

2. Section 630.20(d)—Description of Liabilities

The FCC expressed the view that the information called for by § 630.20(d)(1) regarding System debt obligations is too detailed and, thus, impractical. Section 630.20(d)(1)(ii) is, in large part, based upon the disclosure currently furnished by the System in its Information Statements. Unless otherwise needed to provide readers of the report to investors with information needed to understand the characteristics of System debt, the FCA does not expect extensive detail regarding the characteristics of specific debt offerings. To clarify this position, the FCA has deleted the words "terms and conditions" and added prefatory language to § 630.20(d)(1)(ii) requiring a description of debt obligations statutorily authorized to be issued and currently issued by the System, as well as other pertinent information.

The FCC also requested that the regulation clearly set forth the option of incorporating by reference the annual and quarterly reports to investors into specific offering documents. The FCA notes that the focus of this regulation is on periodic reports of the System to investors. It does not govern offering circulars or specific offering documents. Nothing in this regulation precludes the System from incorporating by reference information contained in the annual or quarterly reports to investors into specific offering documents if otherwise appropriate.

3. Section 630.20(g)(1)—Loan Portfolio

Proposed § 630.20(g)(1)(ii) required disclosure of the amount of loans outstanding that were used to finance the purchases of stock or other equities of System institutions.

The FCC expressed concern regarding the System's ability to comply with this requirement and questioned its relevance to investors. The FCC opined that disclosures currently provided by the System in its annual Information Statement are sufficient. The System's 1993 annual Information Statement states that association borrowers do not typically purchase capital stock for cash, but instead add the aggregate par value of stock to the principal amount of the related loan obligation. The 1993 report also provided the amount of capital stock and participation certificates outstanding at December 31, 1993. The FCC indicated that System compliance with the proposed requirement could only be on a prospective basis because System banks do not have a system in place to track needed information. Further, the FCC

argued that the costs involved in complying with this proposed requirement would outweigh the benefits derived from the disclosure.

The FCA supports the commenter's view that the cost involved in providing meaningful information to investors should not outweigh the benefits derived. The FCA also notes that § 630.20(e)(2), which requires the System to "describe the statutory requirement that a borrower purchase stock as a condition of obtaining a loan; how such stock is purchased, transferred, and retired; and how earnings are distributed," will ensure that investors continue to receive information that describes the nature of borrower stock of the System. As a result, proposed § 630.20(g)(1)(ii) has been deleted from the final rule and proposed § 630.20(g)(1)(iii) and (iv) have been redesignated.

4. Section 630.20(g)(1)(ii)—Risk Exposure

Proposed § 630.20(g)(1)(iii) requires discussion and analysis of the risk exposure of the loan portfolio. The FCC suggested that the term "nonperforming loans" replace the term "high-risk assets" in this section of the regulation because it is more widely used in the commercial banking industry. Use of the term "high-risk assets" in proposed § 630.20(g)(1)(iii) is consistent with the recent amendment of the FCA's accounting and reporting guidelines in part 621 of this chapter. See 58 FR 48780 (September 20, 1993). In the FCA's regulations, the term "high-risk assets" is a generic reference to loans and loan-related assets that are to be categorized for loan performance and valuation assessment purposes according to the criteria set forth in § 621.6 of this chapter. Collectively, the classifications identified in § 621.6 of this chapter are consistent with the terminology used in the commercial banking industry for nonperforming loans. There is no regulatory requirement to categorize the classification as "high-risk assets" in the report to investors. Rather, proposed § 630.20(g)(1)(iii) requires discussion of any risks that could adversely affect the loan portfolio and loan-related assets. Accordingly, the FCA has retained the term "high-risk assets" and adopted § 630.20(g)(1)(iii) essentially as proposed. Proposed § 630.20(g)(1)(iii) is redesignated as § 630.20(g)(1)(ii). The FCA further notes that it expects to revisit the issue of accounting for impaired loans in the future to assess the impact of the implementation of Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan, issued by the Financial and Accounting Standards Board.

5. Section 630.20(g)(1)(iii)—Secondary Market Activities

The FCC commented that secondary market activities have never been and currently are not anticipated to be material to the System's financial condition. The FCC suggested that proposed § 630.20(g)(1)(iv) be modified to require these activities to be described when they become material to the System's financial condition. The FCA agrees with the commenter that the System's involvement in the secondary markets should be disclosed to investors when the effect of such activities on the financial condition of the System is material and has revised proposed § 630.20(g)(1)(iv) to add materiality tests. This provision is redesignated as § 630.20(g)(1)(iii) of the final rule.

The FCA believes that the System's statutory authority to participate in secondary markets should be disclosed to investors in any event. A new paragraph has thus been added in § 630.20(a)(1)(vi) of the final rule to require, without regard to materiality, a description of the authority of System institutions to purchase and sell interests in loans in secondary markets and the risk involved.

6. Section 630.20(g)(3)(ii) and (iii)—Liquidity and Investment

Section § 630.20(g)(3)(ii) and (iii) require that the System provide a brief description of the System's policies regarding liquidity and investment. The FCC pointed out that each System bank adopts its own liquidity and investment policies according to its business objectives. In the absence of universal policies regarding investment and liquidity among System institutions, the commenter suggested that the proposed regulations be revised to require only a general description of System banks' policies. The suggested change is consistent with the intent of the proposed regulations. The FCA has clarified the proposed regulations by revising § 630.20(g)(3)(ii)(A) and (g)(3)(iii) to require a brief overview of liquidity and investment matters.

7. Section 630.20(g)(3)(iv)—Interest Rate Sensitivity

Section 630.20(g)(3)(iv) requires a general description of the System's risk management practices, including a brief discussion of derivative transactions. Due to the heightened interest of the public, financial institution regulators, and Congress in this area, the FCA solicited comments on whether disclosure requirements regarding derivative activities should be more detailed. The FCC suggested that, given the changing GAAP environment for derivative transactions, the FCA consider the approach to derivatives activity regulation used by other bank regulators. This approach requires regulated institutions to adopt policies in accordance with GAAP. The regulator provides any clarification of GAAP or additional guidance through Call Report instructions or other mechanisms.

The FCA adopts § 630.20(g)(3)(iv) as proposed, with a clarification to provide for a "brief overview" of the System's asset and liability management practices. The FCA believes that this approach to derivatives activities disclosure is consistent with the FCC's suggestion. In addition, along with other financial institution regulators, the FCA is monitoring the area of derivatives activities. The FCA will consider requiring more extensive disclosure based on its assessment of the level and significance of System derivatives activities and as the need for regulatory policy in this area becomes more clearly defined.

8. Section 630.20(g)(5)—Insurance Fund

The FCC commented that § 630.20(g)(5), which requires a discussion of the Insurance Fund in the Discussion and Analysis (D&A) section of the report to investors, is unnecessary and would duplicate the disclosure contained in the notes to the System's combined financial statements. Section 630.20(g)(5) requires a discussion of the purposes of the Insurance Fund, a schedule itemizing Insurance Fund assets that have been identified for specific purposes, and an explanation of how expenditures of Insurance Fund assets affect the assets and capital of the System.

The FCA does not believe that the requirement of § 630.20(g)(5) will result in duplication of information in the report. Section 630.3(e) provides that "Information in any part of the report may be incorporated by reference * * * to any other item of the report. Information * * * may be presented in any order deemed suitable by the Funding Corporation." Accordingly, the Funding Corporation has the flexibility to determine where the D&A regarding the Insurance Fund is to be presented. The FCA has adopted § 630.20(g)(5) as proposed.

The FCA notes that the regulation does not require the D&A regarding the Insurance Fund to be audited. Pursuant to § 630.3(e), the System could opt to include the required D&A in the notes to the Systemwide combined financial

statements and incorporate the disclosure by reference into the D&A. In this situation, the required D&A regarding the Insurance Fund would be covered in the independent accountant's report on the Systemwide combined financial statements.

9. Section 630.20(g)(6)—Instructions for Discussion and Analysis

Proposed § 630.20(g)(6)(ii) requires that discussions required by proposed § 630.20(g) cover the 3-year period covered by the financial statements. The FCC suggested that the words "3-year" be deleted. In recognition that the reporting period for the balance sheet is only 2 comparative years, the FCA agrees with the commenter and has amended § 630.20(g)(6)(ii) of the final rule as suggested and revised the introductory paragraph of § 630.20(g) accordingly.

10. Section 630.20(i)—Compensation of Directors and Senior Officers

Section 630.20(i) requires the annual report to state that information on the compensation of directors and senior officers of System banks is contained in each bank's annual report to shareholders and that the annual report of each bank is available to investors upon request pursuant to § 630.3(f). The FCC commented that this requirement provides no useful information to investors and is redundant.

As stated in the rule proposal, the FCA is required by section 514 of the 1992 Act to ensure that the disclosure of financial and conflict-of-interest information by System personnel provides investors and potential investors with information necessary to assist them in making investment decisions regarding FCS debt obligations or institutions. The FCA believes that information on compensation of System directors and senior officers presented in individual System institutions' disclosure to shareholders pursuant to part 620 of this chapter could provide useful information to investors in making investment decisions. Thus, to implement the requirement of section 514 of the 1992 Act, § 630.20(i) requires that the report provide a statement informing investors of the availability of such information. The FCA adopts § 630.20(i) of the final rule as proposed.

11. Section 630.20(l) and (m)—Financial Statements and Supplemental Information

Proposed § 630.30(l) requires that the System prepare the combined financial statements in accordance with GAAP and instructions and other requirements of the FCA. Proposed § 630.20(m) further requires that the System provide supplemental information in addition to the audited financial statements and that the supplemental information be examined by a qualified public accountant for compliance with FCA regulations and guidelines and an opinion expressed thereon. The FCA received comments on proposed § 630.20(l) from the AICPA and the FCC and comments on proposed § 630.20(m) from the AICPA and Price Waterhouse.

With respect to proposed § 630.20(l), both the FCC and the AICPA suggested, for different reasons, that the phrase "instructions and other requirements of the FCA" be deleted from the proposed rule. The FCC was concerned that the proposed language indicates that regulatory accounting practices (RAP) may be utilized, causing investor confusion. On the other hand, the AICPA provided suggested language that would require both the basic financial statement and the supplemental information required by proposed § 630.20(l) and (m) to be audited in accordance with GAAS. The AICPA asserted that the requirements of proposed § 630.20(m) regarding supplemental information disclosure appear to comprise the "instructions and other requirements of the FCA" referred to in § 630.20(l) and, further, that GAAS addresses auditors' reporting on information presented outside financial statements.

Price Waterhouse, the external auditor of the System, also commented on proposed § 630.20(m). Price Waterhouse asserted that the proposed language that "supplemental information be examined by a qualified public accountant for compliance with FCA regulations and guidelines" is too broad and would be interpreted as requiring the independent accountant to render a report on the System's compliance with all FCA regulations and guidelines. This would require significant work by the independent accountant. Price Waterhouse commented that the proposed regulatory language in § 630.20(m) provides insufficient detail to enable the external auditor to determine the scope of additional work to be performed and the type of report to be issued by the auditor on the supplemental information.

Proposed § 630.20(l) was intended to preserve the FCA's ability to prescribe additional requirements for preparation and presentation of the Systemwide combined financial statements. However, after consideration of the comments received, the FCA adopts the AICPA's suggestion in the final rule to require that both the basic financial statements and the supplemental information required by § 630.20(l) and (m) be examined in accordance with GAAS and an opinion expressed thereon by an independent accountant. This change will resolve the FCC concern regarding RAP financial statements and Price Waterhouse's concern regarding the scope of examination of supplemental information and reporting by the independent accountant. However, to preserve the flexibility to revise the format and content specified in Appendix A of the final rule, the FCA retains the requirement that supplemental information be prepared in accordance with any additional FCA guidance or instructions.

12. Section 630.20(o)—Cross-Reference Sheet

Proposed § 630.20(o) called for a cross-reference sheet giving the location of information required by these regulations, in the order required, and identified by item numbers and captions. The FCC did not object to the preparation of a cross-reference sheet, but suggested that the cross-reference sheet would only be useful to the FCA and should only be required as an exhibit to copies of the report filed with the FCA. The FCA believes the cross reference to the content of the report provides useful information to readers of the report. To make this indexing requirement more useful to investors, the FCA has revised § 630.20(o) to inform readers of the location in the report of the information required under the major disclosure captions of this part.

G. Subpart C—Quarterly Report to Investors

Proposed § 630.40(b)(5) requires that the System file a "preferability" letter with the FCA disclosing any accounting changes made during the reporting period that are not required by new accounting pronouncements. The AICPA and the FCC commented that the requirement for filing a separate letter with the FCA explaining the reason for the preferable alternative accounting principle is unnecessary. They suggested that the requirement be deleted from § 630.40(b)(5).

The preferability letter was intended as a notice to inform the FCA of any accounting change made by the System during the interim period that is not required by existing accounting pronouncements. Because the quarterly report will be required to disclose such accounting changes, upon further consideration, the FCA has deleted the requirement of filing a preferability

letter from § 630.40(b)(5) of the final rule.

List of Subjects in 12 CFR Part 630

Accounting, Agriculture, Banks, banking, Credit, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 630 of chapter VI, title 12 of the Code of Federal Regulations is added to read as follows:

PART 630—DISCLOSURE TO INVESTORS IN SYSTEMWIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

Subpart A—General

Sec.

630.1 Purpose.
630.2 Definitions.
630.3 Publishing and filing the report to investors.
630.4 Responsibilities for preparing the report to investors.
630.5 Prohibition against incomplete, inaccurate, or misleading disclosure.
630.6 Farm Credit System audit committee and bank audit committees.

Subpart B—Annual Report to Investors

630.20 Contents of the annual report to investors.

Subpart C—Quarterly Reports to Investors

630.40 Contents of the quarterly report to investors.

Appendix A to Part 630—Supplemental Information Disclosure Guidelines

Authority: Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart A—General

§ 630.1 Purpose.

This part sets forth the requirements for preparation and publication by the Farm Credit System (FCS or System) of annual and quarterly reports to investors and potential investors in Systemwide and consolidated bank debt obligations of the System and to other users of the reports in the general public.

§ 630.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Bank* means any bank chartered under the Farm Credit Act of 1971, as amended (Act).

(b) *Combined financial statements* means financial statements prepared on a combined basis by a group of affiliated entities that share the same financial interest, regardless of whether any of the entities has the ability to exercise control over another. For purposes of this part, unless otherwise specified, combined financial data of a bank and its related associations includes financial data of the bank's consolidated subsidiaries.

(c) *Disclosure entity* means any bank, the Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation), and the Federal Farm Credit Banks Funding Corporation (Funding Corporation).

(d) *Engagement letter* means the proposal, contract, letter, and other documents reflecting the understandings between the audit committee or board of directors of a bank or an association and its independent public accountant regarding the scope, terms, and nature of the audit services to be performed.

(e) *Farm Credit System* means, collectively, the banks, associations, and such other institutions that are or may be made a part of the System under the Act, all of which are chartered by and subject to regulation by the Farm Credit Administration (FCA). For purposes of this part, the System does not include the Federal Agricultural Mortgage Corporation (Farmer Mac).

(f) *FCS debt obligation* means, collectively, notes, bonds, debentures, and other debt securities issued by banks pursuant to section 4.2(c) (consolidated bank debt securities) and section 4.2(d) (Systemwide debt securities) of the Act.

(g) *Report to investors* or *report* means a report that presents the Systemwide combined financial statements, supplemental financial statement information, and related financial and nonfinancial information pertaining to the System required by this part.

(h) *Systemwide combined financial statements* means the combined financial statements required by this part.

§ 630.3 Publishing and filing the report to investors.

(a) The disclosure entities shall jointly publish the following reports in order to provide meaningful information pertaining to the financial condition and results of operations of the System to investors and potential investors in FCS debt obligations and other users of the report:

(1) An annual report to investors within 90 days after the end of each fiscal year;

(2) A quarterly report to investors within 60 days after the end of each quarter, except for the quarter that coincides with the end of the fiscal year.

(b) Each report to investors shall present Systemwide combined financial statements and related footnotes deemed appropriate for the purpose of the report to provide investors with the most meaningful presentation pertaining to the financial condition and results of operations of the System.

(c) All items of essentially the same character as items required to be reported in the reports of condition and performance pursuant to part 621 of this chapter shall be prepared in accordance with the rules set forth in part 621 of this chapter.

(d) Each report to investors shall contain the information required by subparts B and C of this part, as applicable, and such other information as is necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(e) Information in any part of the report may be referenced or incorporated in answer or partial answer to any other item of the report. Information required by this part may be presented in any order deemed suitable by the Funding Corporation.

(f) The report shall include a statement in a prominent location that Systemwide debt securities and consolidated bank debt obligations are joint and several liabilities of individual banks and that copies of each bank's recent periodic reports to shareholders are available upon request. The report shall also include addresses and telephone numbers where copies of the report to investors and the periodic reports of individual banks can be obtained. Copies of the report to investors shall be available for public inspection at the Funding Corporation.

(g) Three complete copies of the report shall be filed with the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102–5090, within the applicable period prescribed under paragraphs (a)(1) and (a)(2) of this section.

(1) At least one copy of the report filed with the FCA shall be dated and manually signed by the following officers and director(s) of the Funding Corporation on its behalf:

(i) The officer(s) designated by the board of directors to certify the report;

(ii) The chief executive officer; and

(iii) Each member of the board or, at a minimum, one of the following board members formally designated by action of the board to certify on behalf of individual board members: the chairperson of the board or a board member designated by the chairperson of the board.

(2) The name and position title of each person signing the report shall be typed or printed beneath his or her

signature. Signers of the report shall attest as follows:

The undersigned certify that this report has been prepared in accordance with all applicable statutory or regulatory requirements and that the information contained herein is true, accurate, and complete to the best of his or her knowledge and belief.

§ 630.4 Responsibilities for preparing the report to investors.

(a) *Responsibilities of the Funding Corporation.* The Funding Corporation shall:

(1) Prepare the reports to investors required by § 630.3(a), including the Systemwide combined financial statements and notes thereto, and such other disclosures, supplemental information, and related analysis as are required by this part to make the reports meaningful and not misleading.

(2) Establish a system of internal controls sufficient to reasonably ensure that any information it releases to investors and the general public concerning any matter required to be disclosed by this part is true and that there are no omissions of material information. The system of internal controls, at a minimum, shall require that the Funding Corporation:

(i) Maintain written policies and procedures, approved by the System Audit Committee, to be carried out by the disclosure entities for preparation of the report to investors;

(ii) Provide instructions to the disclosure entities regarding the information needed for preparation of the Systemwide combined financial statements and disclosures required to be presented in the report to investors;

(iii) Review the information submitted to it for preparation of the report to investors, and make reasonable inquiries to ascertain whether the information is reliable, accurate, and complete; and

(iv) Specify procedures for monitoring interim disclosures of System institutions and disclose, in a timely manner, any material changes in information contained in the most recently published report to investors.

(3) Collect from each disclosure entity financial data and related analyses and other information needed for preparation of the report to investors, including any information that is material to the disclosure entity.

(4) File the reports with the FCA in accordance with § 630.3(g).

(5) Ensure prompt delivery of sufficient copies of each report to selling group dealers for distribution to investors and potential investors in FCS debt obligations.

(6) Make the report available to the general public upon request.

(7) Notify the FCA if it is unable to prepare and publish the report to investors in compliance with the requirements of this part because one or more banks have failed to comply with the requirements of paragraph (c) of this section. A notification, signed by the officer(s) designated by the board of directors of the Funding Corporation to certify the report to investors and by the chief executive officer, shall be made to the FCA as soon as the Funding Corporation becomes aware of its inability to comply. The Funding Corporation shall explain the reasons for the notification and may request that the FCA extend the due date for the report to investors.

(8) Include in the report a statement that briefly explains the respective responsibilities of the disclosure entities and states that the Funding Corporation has policies and procedures in place to ensure, to the best of the knowledge and belief of management and the board of the Funding Corporation, that the information contained in the report is true, accurate, and complete. The statement shall be signed by the chief executive officer and the chairperson of the board of the Funding Corporation.

(9) Request the FCA to provide information regarding the content of the latest Reports of Examination of any banks and related associations, if such information is necessary for preparation of a report that is meaningful and not misleading and is not forthcoming from a bank in accordance with paragraph (c) of this section. The request shall be made to the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102–5090.

(b) *Responsibilities of the Financial Assistance Corporation.* The Financial Assistance Corporation shall provide to the Funding Corporation such information as may be required by the Funding Corporation to prepare the report.

(c) *Responsibilities of banks.* Each bank shall:

(1) Provide to the Funding Corporation annual, quarterly, and interim financial and other information in accordance with instructions of the Funding Corporation for preparation of the report to investors, including:

(i) Financial data of the bank or, if the bank is required under generally accepted accounting principles (GAAP) to prepare its financial statements on a consolidated basis with its subsidiaries, consolidated financial data of the bank and its consolidated subsidiaries; and

(ii) Combined financial data of the bank (including any consolidated subsidiaries of the bank) and related associations of the bank.

(2) Respond to Funding Corporation inquiries and provide any followup information requested by the Funding Corporation in connection with the preparation of the report to investors in accordance with instructions of the Funding Corporation.

(3) Notify the Funding Corporation promptly of any events occurring subsequent to publication of the report that may be material either to the financial condition and results of operations of the bank or to the combined financial condition and results of operations of the bank and its related associations. Furnish the Funding Corporation with any information necessary to provide interim Systemwide disclosure to investors to make the most recently published report to investors not misleading.

(4) Provide in the engagement letter with its external auditor that the external auditor shall, after notifying the bank, respond to inquiries from the Funding Corporation relating to preparation of the report.

(5)(i) Certify to the Funding Corporation that:

(A) All information needed for preparation of the report to investors has been submitted in accordance with the instructions of the Funding Corporation;

(B) The information submitted is prepared in accordance with all applicable statutory and regulatory requirements; and

(C) The information submitted is true, accurate, and complete to the best of management's knowledge and belief.

(ii) The certification required by paragraph (c)(5)(i) of this section shall be prepared as specified by the Funding Corporation and shall be manually signed and dated on behalf of the bank by:

(A) The officer(s) designated by the board of directors to certify the information submitted to the Funding Corporation; and

(B) The chief executive officer.

(d) *Responsibilities of associations.* Each association shall:

(1) Provide its related bank with the information necessary to allow the bank to provide accurate and complete information regarding the bank and its related associations to the Funding Corporation for preparation of the report.

(2) Provide in the engagement letter with its external auditor that the external auditor of the association shall, after notifying the association, respond to inquiries of the related bank

pertaining to preparation of the combined financial data of the association and its related bank.

§ 630.5 Prohibition against incomplete, inaccurate, or misleading disclosure.

Neither the Funding Corporation, nor any institution supplying information to the Funding Corporation under this part, nor any employee, officer, director, or nominee for director of the Funding Corporation or of such institutions, shall make or cause to be made any disclosure to investors and the general public required by this part that is incomplete, inaccurate, or misleading. When any such institution or person makes or causes to be made disclosure under this part that, in the judgment of the FCA, is incomplete, inaccurate, or misleading, whether or not such disclosure is made in published statements required by this part, such institution or person shall promptly furnish to the Funding Corporation, and the Funding Corporation shall promptly publish, such additional or corrective disclosure as is necessary to provide full and fair disclosure to investors and the general public. Nothing in this section shall prevent the FCA from taking additional actions to enforce this section pursuant to its authority under title V, part C of the Act.

§ 630.6 Farm Credit System audit committee and bank audit committees.

(a) *Farm Credit System audit committee.* (1) The board of the Funding Corporation shall establish and maintain a System Audit Committee and adopt a written charter describing the committee's composition, authorities, and responsibilities.

(2) The System Audit Committee shall consist of no fewer than three members. Members shall be independent of management of any disclosure entity and association and free from any relationship that, in the opinion of the board of directors of the Funding Corporation, would interfere with the exercise of independent judgment as a committee member. Members shall be knowledgeable in public and corporate finance, and financial reporting and disclosure.

(3) The System Audit Committee shall report to the board of the Funding Corporation and shall be given adequate resources and authorities to discharge its responsibilities, including the ability to consult the Funding Corporation's legal counsel.

(4) *Responsibilities.* At a minimum, the System Audit Committee shall:

(i) Make recommendations to the board of the Funding Corporation regarding the selection of an independent auditor of the Systemwide combined financial statements;

(ii) Oversee the Funding Corporation management's preparation of the report to investors;

(iii) Review the impact of any significant accounting and auditing developments, and review accounting policy changes relating to preparation of the Systemwide combined financial statements;

(iv) Review the System's annual and quarterly reports to investors prior to their release; and

(v) Oversee the Funding Corporation's system of internal controls relating to preparation of the report, including controls relating to the System's compliance with applicable laws and regulations.

(b) *Farm Credit System bank audit committees.* (1) Each System bank shall establish and maintain a bank audit committee that shall report to the board of the bank.

(2) The bank audit committee shall consist of no fewer than three members. Members shall be independent of management and free from any relationship that, in the opinion of the board of directors of the bank, would interfere with the exercise of independent judgment as a committee member. Members shall be knowledgeable in public and corporate finance, and financial reporting and disclosure.

(3) *Responsibilities.* At a minimum, the bank audit committee shall:

(i) Review the bank's financial statements and significant accounting policies;

(ii) Oversee the bank's financial reporting regarding its disclosure to shareholders and to the Funding Corporation for disclosure to investors;

(iii) Oversee the audit activities of the external auditor; and

(iv) Monitor internal controls, including those relating to compliance with laws and regulations.

Subpart B—Annual Report to Investors

§ 630.20 Contents of the annual report to investors.

The annual report shall contain the following:

(a) *Description of business.* (1) The description shall include a brief discussion of the following:

(i) The System's overall organizational structure, its lending institutions by type and their respective authorities, the relationships between different types of institutions, and the overall geographic area and eligible borrowers served by those institutions;

(ii) The types of lending activities engaged in and financial services offered by System institutions;

(iii) Any significant developments within the last 5 years that have had or could have a material impact on the System's organizational structure and the manner in which System institutions conduct business, including, but not limited to, statutory or regulatory changes, mergers or liquidations of System institutions, terminations of System institution status, and financial assistance provided by or to System institutions through loss-sharing or capital preservation agreements or from any other source;

(iv) Any acquisition or disposition of material assets during the last fiscal year that took place outside the ordinary course of business;

(v) Any concentrations of more than 10 percent of total assets in particular types of agricultural activities or businesses, and any dependence of an institution or a group of institutions of the System upon a specific activity or business, a single customer, or a few customers, including other financing institutions (OFIs), as defined in § 614.4540(e) of this chapter, the loss of any one of which would have a material effect on the System; and

(vi) The authority of System institutions to purchase and sell interests in loans in secondary markets and the risk involved in such activities.

(2) List the address of the headquarters of each disclosure entity and service organization of the System.

(b) *Federal regulation and insurance*—(1) *Farm Credit Administration.* Describe the regulatory and enforcement authority of the FCA over System institutions under the Act.

(2) *Farm Credit System Insurance Corporation.* (i) Describe the role and authorities of the Farm Credit System Insurance Corporation (FCSIC) under part E of title V of the Act. Describe specifically the role of the FCSIC in insuring the timely payment of principal and interest on FCS debt obligations and in providing assistance to System institutions.

(ii) Describe the FCSIC's status as a Government corporation and state that System institutions have no control over the management of the FCSIC or the discretionary expenditures from the Farm Credit Insurance Fund (Insurance Fund), which are the sole prerogative of the FCSIC.

(3) *Farm Credit System Financial Assistance Corporation.* Describe the role and authorities of the Financial Assistance Corporation under title VI of the Act, debt obligations of the Financial Assistance Corporation issued

to provide financial assistance to the System, and statutory repayment obligations of System institutions.

(c) *Description of legal proceedings and enforcement actions.* (1) Describe any material pending legal proceedings in which one or more System institutions are a party, or that involve claims that a System institution(s) may be required by contract or operation of law to satisfy, and the potential impact of such proceedings, to the extent known, on the System.

(2) Provide a summary of the types of enforcement actions in effect during the year, and any material impact of such proceedings on the System.

(d) *Description of liabilities.* (1) Describe how the System funds its lending operations, including:

(i) System banks' authority to borrow, and issue notes, bonds, debentures, and other obligations, and limitations thereof under section 4.2 of the Act;

(ii) A description of the types of debt obligations authorized to be issued under the Act, the types of debt obligations currently issued, the manner and form in which they are issued, rights of securities holders, risk factors, use of proceeds, tax effects of holding securities, market information, and other pertinent information;

(iii) For each of the types of obligations that may be issued, whether it is insured, and the extent of any joint and several liability for the obligations; and

(iv) Any applicable statutory and regulatory requirements affecting a bank's ability to incur debt.

(2) Describe agreements among System banks and the Funding Corporation affecting a bank's ability to incur debt.

(3) Describe agreements among System institutions regarding capital preservation, loss sharing, or any other forms of financial assistance.

(e) *Description of capital.* (1) Describe the capitalization of the System, including capital structure, types of stock and participation certificates, and voting rights of holders of stock and participation certificates.

(2) Describe the statutory requirement that a borrower purchase stock as a condition of obtaining a loan; how such stock is purchased, transferred, and retired; and how earnings are distributed.

(3) Describe any statutory or other authority of a System institution to require additional capital contributions from stockholders.

(4) Describe regulatory minimum permanent capital standards and capital adequacy requirements for banks and associations. State the number of institutions, if any, categorized by banks and associations, that are not currently in compliance with such standards and include a brief discussion of the reasons for the noncompliance.

(5) Describe any statutory and regulatory restrictions on retirement of stock and distribution of earnings by System institutions. State the number of System institutions, if any, categorized by banks and associations, that are currently affected by such restrictions and provide a summary of the causes of such prohibitions.

(f) *Selected financial data.* At a minimum, furnish the following combined financial data of the System in comparative columnar form for each of the last 5 fiscal years.

(1) *Balance sheet.*

(i) Loans.

(ii) Allowance for losses.

(iii) Net loans.

(iv) Cash and investments.

(v) Other property owned.

(vi) Total assets.

(vii) FCS debt obligations and other bonds, notes, debentures, and obligations, presented by type, with a descriptive title.

(viii) Total liabilities.

(ix) Capital stock and surplus.

(2) *Statement of income.*

(i) Net interest income.

(ii) Net other expenses.

(iii) Provision for loan losses.

(iv) Extraordinary items.

(v) Provision for income taxes.

(vi) Net income (loss).

(3) *Key financial ratios.* (i) Return on average assets.

(ii) Return on average capital stock and surplus.

(iii) Net interest income as a percentage of average earning assets.

(iv) Net loan chargeoffs as a percentage of average loans.

(v) Allowance for loan losses as a percentage of gross loans outstanding at yearend.

(vi) Capital stock and surplus as a percentage of total assets at yearend.

(vii) Debt to capital stock and surplus at yearend.

(g) *Discussion and analysis.* Fully discuss any material aspects of financial condition, changes in financial condition, and results of operations of System institutions, on a combined basis, for the comparative years required by paragraph (g)(6)(ii) of this section or such other time periods specified in the following paragraphs of this section. Identify favorable and unfavorable trends, and significant events or uncertainties necessary to understand the financial condition and results of operations of the System. At a minimum, the discussion shall include the following:

(1) *Loan portfolio*—(i) *Categorization.* Describe the loan portfolio of the System by major loan purpose category, indicating the amount and approximate percentage of the total dollar portfolio represented by each major category.

(ii) *Risk exposure.* (A) Describe and analyze all high-risk assets, including an analysis of the nature and extent of significant current and potential credit risks within the loan portfolio and of other information that could adversely affect the loan portfolio and other property owned.

(B) Provide an analysis of the allowance for loan losses that includes the ratios of the allowance for loan losses to loans (outstanding at yearend) and net chargeoffs to average loans, and a discussion of the adequacy of the allowance for loan losses to absorb the risk inherent in the loan portfolio and the basis for such determination.

(iii) *Secondary market activities.* (A) If material, quantify System institutions' secondary market activities and the risk involved in such activities.

(B) If material, provide an analysis of historical loss experience and the amount provided for risk of loss associated with secondary market activities.

(2) *Results of operations.* (i) Describe, on a comparative basis, changes in the major components of net interest income. Include a discussion of significant factors that contributed to the changes and quantify the amount of change(s) due to an increase or decrease in volume and the amount due to changes in interest rates earned and paid, based on averages for each period.

(ii) Describe any unusual or infrequent events or transactions, or any significant economic changes that materially affected reported income and, in each case, indicate the extent to which income was so affected.

(iii) Discuss the factors underlying any material changes in the return on average assets and return on average capital stock and surplus.

(iv) Describe, on a comparative basis, the major components of operating expense and any other significant components of income or expense, indicating the reasons for any significant increases or decreases.

(v) Describe any known trends or uncertainties that have had, or that are reasonably expected to have, a material impact on net interest income or net income. Disclose any known events that will cause a material change in the relationship between costs and revenues.

(vi) Explain the changes that have taken place, by major components on a comparative basis, in Insurance Fund

assets and related restricted capital and how such changes affected reported income.

(3) *Funding sources and liquidity*—(i) *Funding sources.*

(A) Provide, in tabular form, the component amounts and the total amount of FCS debt obligations, debt obligations issued by banks individually, and Financial Assistance Corporation debt obligations outstanding at yearend for each of the past 2 fiscal years. List debt obligations issued by System institutions separately by type, also separating insured obligations from uninsured obligations. For each type of debt obligation listed, provide the following, at a minimum, for each fiscal year listed:

(*1*) The beginning balance, the total amount of debt issued, the total amount of debt retired, and the yearend balance; and

(*2*) The average maturities and average interest rates on debt outstanding at yearend, and the average maturities and average interest rates of new debt issued during the year.

(B) Summarize any other sources of funds, including lines of credit with commercial lenders, and their terms.

(ii) *Liquidity.* (A) Include a brief overview of any FCA regulations or System policies with regard to liquidity and liquidity reserves.

(B) Identify any known trends, demands, commitments, events, or uncertainties that will result in, or that are reasonably likely to result in, System liquidity increasing or decreasing in any material way. If a material liquidity deficiency is identified, indicate the course of action that has been taken or is proposed to be taken by management of affected System institutions to remedy the deficiency.

(iii) *Investment.* Provide a brief overview of the System's investment policies and objectives, any regulatory limitations thereon, and the contents of the System's existing investment portfolio.

(iv) *Interest rate sensitivity.* (A) Provide a brief overview of the System's asset and liability management practices, including interest rate risk measurement systems, and methods used to control interest rate risk, such as the use of investments, derivatives, and other off-balance-sheet transactions.

(B) Provide an analysis of the System's exposure to interest rate risk and its ability to control such risk.

(4) *Capital resources.* (i) Describe any material commitments to purchase capital assets and the anticipated sources of funding.

(ii) Describe any material trends, favorable or unfavorable, in the System's capital resources, including any material changes in the mix of capital and debt, the relative cost of capital resources, and any off-balance-sheet financing arrangements.

(iii) Provide a general discussion of any trends, commitments, contingencies, or events that are reasonably likely to have a material adverse effect on System institutions' ability to comply with regulatory capital standards.

(5) *Insurance Fund.* (i) Describe the purposes for which expenditures from the Insurance Fund may be made and the statutory requirements for making such expenditures.

(ii) Provide a schedule itemizing the amount of Insurance Fund assets that have been specifically identified by the FCSIC for payment of estimated obligations of the FCSIC and the amount of Insurance Fund assets for which no specific use has been identified or designated by the FCSIC. Information provided shall be as of the end of the most recent fiscal year.

(iii) Explain how FCSIC expenditures or designations of Insurance Fund assets for payment of future obligations affect the combined assets and capital of the System, and quantify the effect, if any.

(6) *Instructions for discussion and analysis.* (i) The purpose of the discussion and analysis (D&A) shall be to provide to investors and other users information relevant to an assessment of the combined financial condition and results of operations of System institutions as determined by evaluating the amounts and certainty of cashflows from operations and from outside sources. The information provided pursuant to this section need only include that which is available to System institutions and which does not clearly appear in the combined financial statements.

(ii) The D&A of the financial statements and other statistical data shall be presented in a manner designed to enhance a reader's understanding of the combined financial condition, results of operations, cashflows, and changes in capital of System institutions. Unless otherwise specified in § 630.20(g), the discussion shall cover the period covered by the financial statements and shall use year-to-year comparisons or any other understandable format. Where trend information is relevant, reference to the 5-year selected financial data required by paragraph (f) of this section may be necessary.

(iii) The D&A shall focus specifically on material events and uncertainties known at the time of reporting that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This should include descriptions and amounts of:

(A) Matters that would have an impact on future operations but that have not had an impact in the past; and

(B) Matters that have had an impact on reported operations but are not expected to have an impact on future operations.

(h) *Directors and management*—(1) *Board of directors.* Briefly describe the composition of boards of directors of the disclosure entities. List the name of each director of such entities, including the director's term of office and principal occupation during the past 5 years, or state that such information is available upon request pursuant to § 630.3(f).

(2) *Management.* List the names of chief executive officers and presidents of disclosure entities, including position title, length of service at current position, and positions held during the past 5 years.

(i) *Compensation of directors and senior officers.* State that information on the compensation of directors and senior officers of System banks is contained in each bank's annual report to shareholders and that the annual report of each bank is available to investors upon request pursuant to § 630.3(f).

(j) *Related party transactions.* (1) Briefly describe how System institutions, in the ordinary course of business and subject to regulation by the FCA, may enter into loan transactions with related parties, including their directors, officers, and employees, the immediate family members (as defined in § 620.1(e) of this chapter) of such persons, and any organizations with which such persons and their immediate family members are affiliated.

(2) On a comparative basis for each of the fiscal years covered by the balance sheet, state the aggregate amount of the following:

(i) Loans made to related parties;

(ii) Loans outstanding at yearend to related parties;

(iii) Loans outstanding at yearend to related parties that are made on more favorable terms than those prevailing at the time for comparable transactions with unrelated borrowers; and

(iv) Loans outstanding at yearend to related parties that involve more than a normal risk of collectibility (as defined in § 620.1(i) of this chapter).

(k) *Relationship with independent public accountant.* If a change in the accountant who has previously

examined and expressed an opinion on the Systemwide combined financial statements has taken place since the last annual report to investors or if a disagreement with an accountant has occurred that the Funding Corporation would be required to report to the FCA under part 621 of this chapter, disclose the information required by § 621.4(c) and (d) of this chapter.

(l) *Financial statements.* Furnish Systemwide combined financial statements and related footnotes prepared in accordance with GAAP, and accompanied by supplemental information prepared in accordance with the requirements of § 630.20(m). The Systemwide combined financial statements shall provide investors and potential investors in FCS debt obligations with the most meaningful presentation pertaining to the financial condition and results of operations of the System. The Systemwide combined financial statement and accompanying supplemental information shall be audited in accordance with generally accepted auditing standards by a qualified public accountant (as defined in § 621.2(i) of this chapter). The Systemwide combined financial statements shall include the following:

(1) A balance sheet as of the end of each of the 2 most recent fiscal years; and

(2) Statements of income, statements of changes in capital stock and surplus (or, if applicable, statements of changes in protected borrower capital and capital stock and surplus), and statements of cash flows for each of the 3 most recent fiscal years.

(m) *Supplemental information.* Furnish supplemental information regarding the components of the Systemwide combined financial statements that has been prepared in accordance with the requirements of this paragraph and any additional guidance or instructions provided by the FCA.

(1) At a minimum, the supplemental information shall include the following:

(i) Supplemental balance sheet information as of the end of the most recent fiscal year; and

(ii) Supplemental income statement information for the most recently completed fiscal year.

(2) At a minimum, the report shall present supplemental information showing combined financial data for the following components on a stand-alone basis:

(i) Banks;

(ii) Associations;

(iii) Financial Assistance Corporation;

(iv) Combined financial data of the System without the Insurance Fund;

(v) The Insurance Fund and related combination entries; and

(vi) Combined financial data of the System with the Insurance Fund.

(3) The supplemental information shall be presented in a columnar format and include, at a minimum, the selected financial data listed in the schedules in Appendix A of this part. The prescribed components shall be designated as column headings and they may be abbreviated in the schedules. The financial data required by § 630.20(m)(2)(i) shall include the financial data required to be submitted by each bank pursuant to the requirement of § 630.4(c)(1)(i).

(4) The supplemental information may be presented separately or in accompanying notes to the Systemwide combined financial statements and shall contain additional disclosures sufficient to explain the basis of the presentation of the supplemental information, the components, and any adjustments contained therein to enable readers to understand the effect of each component on the Systemwide combined financial statements.

(n) List the names of the System Audit Committee members in the report to investors.

(o) Include a detailed index setting forth the major disclosure captions of this subpart and the page or pages on which the required information appears in the report.

Subpart C—Quarterly Reports to Investors

§ 630.40 Contents of the quarterly report to investors.

(a) *General.* The quarterly report to investors shall contain the information specified in this section along with any other material information necessary to make the required disclosures, in light of the circumstances under which they are made, not misleading. The quarterly report must be presented in a format that is easily understandable and not misleading.

(b) *Rules for condensation.* For purposes of this subpart, major captions to be provided in interim financial statements are the same as those provided in the financial statements contained in the annual report to investors, except that the financial statements included in the quarterly report may be condensed into major captions in accordance with the rules prescribed under this paragraph.

(1) *Interim balance sheets.* When any major balance sheet caption is less than 10 percent of total assets and the amount in the caption has not increased or decreased by more than 25 percent since the end of the preceding fiscal year, the caption may be combined with others.

(2) *Interim statements of income.* When any major income statement caption is less than 15 percent of average net income for the 3 most recent fiscal years and the amount in the caption has not increased or decreased by more than 20 percent since the corresponding interim period of the preceding fiscal year, the caption may be combined with others. In calculating average net income, loss years should be excluded. If losses were incurred in each of the 3 most recent fiscal years, the average loss shall be used for purposes of this test.

(3) The interim financial information shall include disclosure either on the face of the financial statements or in accompanying footnotes sufficient to make the interim information presented not misleading. It may be presumed that users of the interim financial information have read or have access to the audited financial statements for the preceding fiscal year, and the adequacy of additional disclosure needed for a fair presentation may be determined in that context. Accordingly, footnote disclosure that would substantially duplicate the disclosure contained in the most recent audited financial statements (such as a statement of significant accounting policies and practices) and details of accounts that have not changed significantly in amount or composition since the end of the most recently completed fiscal year may be omitted.

(4) Interim reports shall disclose events that have occurred subsequent to the end of the most recently completed fiscal year that have a material impact on the System. Disclosures should encompass, for example, significant changes since the end of the most recently completed fiscal year in such items as accounting principles and practices, estimates used in the preparation of financial statements, status of long-term contracts, capitalization, significant new indebtedness or modification of existing financing agreements, financial assistance received, significant business combinations and liquidations of System institutions, and terminations of System institution status. Notwithstanding the provisions of this paragraph, where material contingencies exist, disclosure of such matters shall be provided even though a significant change since yearend may not have occurred.

(5) In addition to meeting the reporting requirements specified by existing accounting pronouncements for

accounting changes, state the date of any material accounting change and the reasons for making it.

(6) Any material prior period adjustment made during any period covered by the interim financial statements shall be disclosed, together with its effect upon net income and upon the balance of surplus for any prior period included. If results of operations for any period presented have been adjusted retroactively by such an item subsequent to the initial reporting of such period, similar disclosure of the effect of the change shall be made.

(7) Interim financial statements furnished shall reflect all adjustments that are necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Furnish any material information necessary to make the information called for not misleading, such as a statement that the results for interim periods are not necessarily indicative of results to be expected for the year.

(8) If any amount that would otherwise be required to be shown by this section with respect to any item is not material, it need not be separately shown. The combination of insignificant items is permitted.

(c) *Discussion and analysis of interim financial condition and results of operations.* Discuss any material changes to the information disclosed to investors pursuant to § 630.20(g) that have occurred during the periods specified in paragraphs (d)(1) and (d)(2) of this section. Provide any additional information needed to enable the reader to assess material changes in financial condition and results of operations between the periods specified in paragraphs (d)(1) and (d)(2) of this section.

(1) *Material changes in financial condition.* Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided.

(2) *Material changes in results of operations.* Discuss any material changes in the combined results of operations of the System with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. Such discussion shall also cover material changes with respect to the most recent fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year.

(d) *Financial statements.* Interim combined financial statements shall be provided in the quarterly report to investors as set forth in paragraphs (d)(1) through (4):

(1) An interim balance sheet as of the end of the most recent fiscal quarter and a balance sheet as of the end of the preceding fiscal year.

(2) Interim statements of income for the most recent fiscal quarter, for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the comparable periods for the previous fiscal year.

(3) Interim statements of changes in capital stock and surplus (or, if applicable, interim statements of changes in protected borrower capital and capital stock and surplus) for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the comparable period for the preceding fiscal year.

(4) Interim statements of cash flows for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the comparable period for the preceding fiscal year.

(e) *Supplemental information.* The interim report shall present supplemental information in accordance with the requirements of § 630.20(m)(2), (m)(3), and (m)(4), as well as other requirements and instructions of the FCA, and shall include, at a minimum, the following:

(1) Supplemental balance sheet information as of the end of the most recent quarter; and

(2) Supplemental income statement information for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter.

(f) *Review by independent public accountant.* Unless otherwise ordered by the FCA as a result of a supervisory action, the interim financial statements and supplemental information need not be audited or reviewed by an independent public accountant prior to filing. If, however, a review of the report is made in accordance with the established professional standards and procedures for such a review, a statement that the independent accountant has performed such a review may be included. If such a statement is made, the report of the independent accountant on such review shall accompany the interim financial information.

Appendix A to Part 630—Supplemental Information Disclosure Guidelines

Supplemental information required by §§ 630.20(m) and 630.40(e) shall contain, at a minimum, the current year financial data for the components listed in the following tables and be presented in the columnar format illustrated in the following tables:

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BILLING CODE 6705-01-C

TABLE A—SUPPLEMENTAL BALANCE SHEET INFORMATION

	Banks[1]	Associations[2]	Financial assistance corporation	Eliminations	Combined without insurance fund[3]	Insurance fund and related combination entries	Combined with insurance fund
Cash and investments							
Net loans							
Restricted assets							
Other Assets							
Total assets							
Total liabilities							
Protected borrower capital[4]							
Restricted capital							
Capital stock and surplus							
Total liabilities, protected borrower capital, and capital stock and surplus							

[1] Provide combined financial data of all FCS banks, including any consolidated subsidiaries of the banks.
[2] Provide association-only combined financial data of all FCS associations.
[3] Provide the combined financial data of all columns on the left.
[4] Any item that is no longer applicable, e.g., protected borrower stock, may be omitted.

TABLE B—SUPPLEMENTAL INCOME STATEMENT INFORMATION

	Banks[1]	Associations[2]	Financial assistance corporation	Eliminations	Combined without insurance fund[3]	Insurance fund and related combination entries	Combined with insurance fund
Net interest income							
Provision for loan losses							
Other income							
Other expenses							
Net income							

[1] Provide combined financial data of all FCS banks, including any consolidated subsidiaries of the banks.
[2] Provide association-only combined financial data of all FCS associations.
[3] Provide the combined financial data of all columns on the left.

Dated: September 1, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–22221 Filed 9–9–94; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AEA–06]

Modification of Class D Airspace and Establishment of Class E Airspace; Baltimore, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action modifies the Class D airspace area at Baltimore, Martin State Airport, MD by amending this area's effective hours to coincide with the associated control tower hours of operation. This action also establishes Class E airspace in this area when the associated control tower is closed. The intended effect of this action is to clarify when two-way radio communication with the air traffic control tower is required and to provide adequate Class E airspace for instrument approach procedures when the control tower is closed.

DATES:

Effective Date: 0901 U.T.C. December 8, 1994.

Comment Date: Comments must be received on or before September 22, 1994.

ADDRESSES: Send comments on the rule in triplicate to: Manager, Air Traffic Division, AEA–500, Airspace Docket Number 94–AEA–06, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430. An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Jordan, Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–0857.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is a final rule, and was not preceded by notice and public procedure, comments are invited on the rule. All comments should be submitted, in triplicate, to Mr. Frank Jordan at the address specified above. An informal docket may also be examined during normal business hours at the address specified above. This rule will become effective on the date specified in the "DATES" section. However, after the review of any comments, and if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to extend the effective date of the rule or to amend the regulation.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class D airspace area at Baltimore, Martin State Airport, MD, by amending this area's effective hours to coincide with the associated control tower's hours of operation. This action also establishes Class E airspace in this area when the associated control tower is closed. Prior to Airspace Reclassification, an airport traffic area (ATA) and a control zone (CZ) existed at this airport. However, Airspace Reclassification, effective September 16, 1993, discontinued the use of the term "airport traffic area" and "control zone," replacing them with the designation "Class D airspace." The former CZ was continuous, while the former ATA was contingent upon the operation of the air traffic control tower. The consolidation of the ATA and CZ into a single Class D airspace designation makes it necessary to modify the effective hours of the Class D airspace to coincide with the control tower's hours of operation. This action also establishes Class E airspace during the hours the control tower is closed. The intended effect of this action is to clarify when two-way radio communication with the air traffic control tower is required and to provide adequate Class E airspace for instrument approach procedures when this control tower is closed.

The coordinates for this airspace docket are based on North American Datum 83. Class D and E airspace designations are published in Paragraphs 5000 and 6002, respectively, of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order. Under the circumstances presented, the FAA concludes that there is an immediate need to modify this Class D and establish this Class E airspace area in order to promote the safe and efficient handling of air traffic in these areas. Therefore, I find that notice and public procedures under 5 U.S.C. 553(b) are impracticable and contrary to public interest.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; Executive Order 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 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000—General

* * * * *

AEA MD D Baltimore, Martin State Airport, MD [Revised]

Martin State Airport, Baltimore, MD

(lat. 39°19'32"N., long. 76°24'50"W.)
Baltimore VORTAC
(lat. 39°10'15"N., long. 76°39'41"W.)
Martin NDB
(lat. 39°17'59"N., long. 76°22'49"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of the Martin State Airport and within 4.4 miles each side of a 14.7-mile radius arc of the Baltimore VORTAC extending clockwise from the Baltimore VORTAC 030° radial to the VORTAC 046° radial, excluding that airspace within the Washington Tri-Area, DC Class B airspace and Restricted Areas R–4001A and R–4001B when they are in effect. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AEA MD E2 Baltimore, Martin State Airport, MD [New]

Martin State Airport, Baltimore, MD
(lat. 39°19'32"N., long. 76°24'50"W.)
Baltimore VORTAC
(lat. 39°10'15"N., long. 76°39'41"W.)
Martin NDB
(lat. 39°17'59"N., long. 76°22'49"W.)

Within a 4.3-mile radius of the Martin State Airport and within 4.4 miles each side of a 14.7-mile radius arc of the Baltimore VORTAC extending clockwise from the Baltimore VORTAC 030° radial to the VORTAC 046° radial, excluding that airspace within the Washington Tri-Area, DC Class B airspace and Restricted Areas R–4001A and R–4001B when they are in effect. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004—Class E airspace areas designated as an extension to a Class D surface area

* * * * *

AEA MD E4 Baltimore, Martin State Airport, MD [Revised]

Martin State Airport, Baltimore, MD
(lat. 39°19'32"N., long. 76°24'50"W.)
Martin NDB
(lat. 39°17'59"N., long. 76°22'49"W.)

That airspace extending upward from the surface within 2.7 miles each side of a 129° bearing from the Martin NDB extending from the 4.3-mile radius of the Martin State Airport area to 7.4 miles southeast of the Martin NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on August 16, 1994.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 94–21978 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 94–AEA–05]

Modification of Class D Airspace and Establishment of Class E Airspace; Wilmington, DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action modifies the Class D airspace area at Wilmington, DE by amending this area's effective hours to coincide with the associated control tower hours of operation. This action also establishes Class E airspace in this area when the associated control tower is closed. The intended effect of this action is to clarify when two-way radio communication with the air traffic control tower is required and to provide adequate Class E airspace for instrument approach procedures when the control tower is closed.

DATES:

Effective Date: 0901 U.T.C. December 8, 1994.

Comment Date: Comments must be received on or before September 22, 1994.

ADDRESSES: Send comments on the rule in triplicate to: Manager, Air Traffic Division, AEA–500, Airspace Docket Number 94–AEA–05, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430. An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Jordan, Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–0857.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is a final rule, and was not preceded by notice and public procedure, comments are invited on the rule. All comments should be submitted, in triplicate, to Mr. Frank Jordan at the address specified above. An informal docket may also be examined during normal business hours at the address specified above. This rule will become effective on the date specified in the "**DATES**" section. However, after the review of any comments, and if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to extend the effective date of the rule or to amend the regulation.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class D airspace area at Wilmington, DE, by amending this area's effective hours to coincide with the associated control tower's hours of operation. This action also establishes Class E airspace at these areas when the associated control tower is closed. Prior to Airspace Reclassification, an airport traffic area (ATA) and a control zone (CZ) existed at this airport. However, Airspace Reclassification, effective September 16, 1993, discontinued the use of the term "airport traffic area" and "control zone," replacing them with the designation "Class D airspace." The former CZ was continuous, while the former ATA was contingent upon the operation of the air traffic control tower. The consolidation of the ATA and CZ into a single Class D airspace designation makes it necessary to modify the effective hours of the Class D airspace to coincide with the control tower's hours of operation. This action also establishes Class E airspace during the hours the control tower is closed. The intended effect of this action is to clarify when two-way radio communication with the air traffic control tower is required and to provide adequate Class E airspace for instrument approach procedures when these control towers are closed.

The coordinates for this airspace docket are based on North American Datum 83. Class D and E airspace designations are published in Paragraphs 5000 and 6002, respectively, of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the

Order. Under the circumstances presented, the FAA concludes that there is an immediate need to modify this Class D and establish this Class E airspace area in order to promote the safe and efficient handling of air traffic in these areas. Therefore, I find that notice and public procedures under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; Executive Order 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 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000—General

* * * * *

AEA DE D Wilmington, DE [Revised]

New Castle County Airport, Wilmington, DE
(lat. 39°40′43″ N., long. 75°36′24″ W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.2-mile radius of the New Castle County Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AEA DE E2 Wilmington, DE [New]

New Castle County Airport, Wilmington, DE
(lat. 39°40′43″ N., long. 75°36′24″ W.)

Within a 4.2-mile radius of the New Castle County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on August 16, 1994.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 94–21977 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AGL–7]

Establishment of Class D and E Airspace; Kenosha, WI; Revocation of Class E Airspace; Kenosha, WI; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace designation of the Kenosha, Wisconsin, Class E airspace published in a final rule on August 3, 1994 (59 FR 39435), Airspace Docket Number 94–AGL–7.

EFFECTIVE DATE: 0901 UTC, October 13, 1994.

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 94–18828, Airspace Docket 93–AGL–7, published August 3, 1994 (59 FR 39435), revoked the description of the Kenosha, Wisconsin Class E airspace. The Class E5 airspace was revoked in error. This action corrects the error by deleting the reference to remove the Class F airspace. This change does not effect the description of the Kenosha, WI Class D and E4 airspace.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for the Kenosha, Wisconsin, Class E airspace, as published in the **Federal Register** on August 3, 1994 (59 FR 39435) (**Federal Register** Document 94–18828), is corrected on page 39436, middle column, in the amendment to the incorporation by reference 14 CFR 71.1 as follows:

§ 71.1 [Corrected]

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

* * * * *

AGL WI E5 Kenosha, WI [Corrected]

Kenosha Municipal Airport, WI
(Lat. 42°35′43″ N., long. 87°55′39″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Kenosha Municipal Airport, excluding that airspace within the Chicago, IL, and Milwaukee, WI, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on August 29, 1994.

James Washington,

Acting Manager, Air Traffic Division.

[FR Doc. 94–22360 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 24, 122, 123, and 134

[T.D. 94–74]

RIN 1515–AB30

Pay Reform for Customs Inspectional Services

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adopting final rules to implement, in part, those provisions of the Omnibus Budget Reconciliation Act of 1993 that provide for overtime and premium pay for Customs Officers performing inspectional services. This document addresses the public comments submitted in response to the interim regulations which initially implemented the pay reform provisions, and makes certain changes to those interim regulations in response to the public comments and in order to add clarity and improve the readability of the final regulations.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Kevin Cummings, Office of Workforce Effectiveness and Development (202) 927–1391.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1993, the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, 107 Stat. 312) (the 1993 Act) was signed into law. Part II of Subchapter D of Title XIII of the 1993 Act (107 Stat. 668)—popularly referred to as the Customs Officer Pay Reform Amendments (COPRA)—amended section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) to reform the overtime—and establish a premium—pay system by which Customs Officers who perform inspectional services would be compensated. In general, while the COPRA retained the basic double-time compensation rate for overtime services, its three sections (sections 13811–13813) made certain changes concerning how and when such Customs Officers would be compensated.

Section 13811 (codified, in part, at 19 U.S.C. 267) amended 19 U.S.C. 261, 267, and 1450 (and repealed 19 U.S.C. 1451a) to create a new and exclusive overtime compensation and premium pay schedule for Customs Officers performing inspectional services, and required the Secretary of the Treasury to promulgate regulations to prevent certain abuses that developed under the old pay system. Section 13812 amended 5 U.S.C. 8331(3) to provide additional benefits for Customs Officers; it allows overtime compensation to be included in the calculation of Federal retirement annuities, up to an amount equal to 50 percent of the applicable statutory pay limitation, and authorizes the payment of cash awards to Customs Officers for foreign language proficiency. Section 13813 amended 19 U.S.C. 13031(f)(3) to make certain adjustments concerning reimbursements from the Customs User Fee Account.

On December 28, 1993, Customs published as T.D. 94–2 interim regulations in the **Federal Register** (58 FR 68520) to implement the provisions of section 13811 of the 1993 Act. (The provisions of sections 13812 and 13813 of the 1993 Act were not dealt with in that document; the regulations implementing those aspects of the pay reform provisions will be issued by the Office of Personnel Management and Customs at a later date.) The interim regulations amended and revised certain sections in parts 4, 24, 122, 123, and 134 of the Customs Regulations (19 CFR parts 4, 24, 122, 123, and 134) and solicited comments concerning these changes.

Three parties submitted comments regarding one or more aspects of the interim regulations. The comments received, and Customs responses to them, are set forth below.

Discussion of Comments

The comments received raised, in part, six areas of concern that will be responded to in this document:

(1) Customs interpretation of the exclusivity clause (19 U.S.C. 267(c)(2)) regarding when and how shift differential allowances would be paid (19 CFR 24.16(a));

(2) whether the definition of "regularly-scheduled administrative workweek" precluded considerations of other, alternative work schedules (19 CFR 24.16(b)(16));

(3) the propriety of defining "work assignment priorities" in agency regulations (19 CFR 24.16(d));

(4) the inclusion of workers compensation benefits in the listing of categories for which Customs Officers may receive pay for work not performed (19 CFR 24.16(e)(2)(ii));

(5) the payment of commute compensation when the overtime assignment begins 16 hours or more after the last regularly scheduled assignment (19 CFR 24.16(f)(2)(v)), and;

(6) the exclusion of workers compensation benefits from any applicable pay cap calculations (19 CFR 24.16(h)).

Certain other issues raised by the National Treasury Employees Union (NTEU, one of the parties submitting comments) are the subject of pending litigation before the United States District Court for the District of Columbia (Civil Action No. 94–0163, filed January 31, 1994). As it would be inappropriate for Customs to discuss those issues at this time, those comments are not addressed in this document. We now address the identified areas of concern in turn.

24.16(a)—Interpretation of exclusivity clause

Comment: Although the 1993 Act prohibits employees who are paid overtime under subsection (a) of the statute or premium pay under subsection (b) of the statute from receiving "* * * pay or other compensation for *that work* under any other provision of law" (emphasis in original), the exclusivity clause contained in the 1993 Act does not divest employees of their right to receive payment under other applicable pay statutes for work performed during periods for which no 1993 Act payments are received. For example, an employee may be assigned to a night shift for which no night work differential is payable under the 1993 Act (11:00 a.m. to 7:00 p.m.). That employee should still be paid night shift differential from 6:00 p.m. to 7:00 p.m. under the Federal Employees Pay Act (FEPA) or other applicable law. The interim regulations should be modified to reflect this entitlement.

Customs Response: Customs disagrees. With enactment of the COPRA in the 1993 Act, Congress created a total pay and compensation system unique to the inspectional duties performed by Customs Officers. The establishment of this new system effectively removed those officers from coverage under any other statute for pay and compensation purposes. Accordingly, no change to § 24.16(a) is made.

When the COPRA were promulgated, Congress reasoned that its purpose in requiring Customs Officers to work 40 hours in a week or 8 hours in a day, without regard to the hour of the day or the day of the week, before they qualify for overtime pay, was to encourage Customs to adjust its inspectional resources to meet actual trade patterns, rather than forcing the trade community to adjust to a predetermined Customs workday. Also, Congress wanted Customs to measure workload and trade patterns at each of its ports and then adjust work schedules to meet that demand while using as little overtime as possible. See, "Report of the Committee on the Budget House of Representatives on Omnibus Budget Reconciliation Act of 1993", Report 103–111 (May 25, 1993), p. 573. Since section 267(c)(2) clearly provides that a Customs Officer who receives overtime pay under subsection (a) (19 U.S.C. 267(a)) or premium pay under subsection (b) (19 U.S.C. 267(b)) for time worked may not receive pay or other compensation for that work under any other provision of law, it is axiomatic that Congress' explanation in the context of overtime pay is equally applicable to the payment of premium pay differentials, *i.e.*, night shift pay. And, as no allowance for night work differential premium pay is authorized under the Customs Officer Pay Reform provisions where less than a majority of night work hours is worked during the specified time periods (19 U.S.C. 267(b)(1)–(3), 19 CFR 24.16(g)(3)(i)–(iii)), it is clear that the 1993 Act does divest Customs Officers—but not other Customs employees—of their right to receive payment under other applicable pay statutes for work performed. Any other interpretation of

section 267(c)(2) would render the express limitation meaningless.

In the scenario presented in the commenter's example, the payment of night differential premium pay is not authorized because the Customs Officer, as defined at 19 U.S.C. 267(e)(1) and subject to the overtime and premium pay provisions of 19 U.S.C. 267, does not work a majority of hours between any of the three time frames established by Congress for payment of such premium pay. See, 19 U.S.C. 267(b)(1)(A) through (C). Although the Customs Officer is officially assigned to work an 8-hour shift which goes past the, heretofore, traditional working day of 6:00 p.m., no night work differential is authorized under the exclusivity of pay provision under the COPRA (19 U.S.C. 267(c)(2)); the terms of the exclusivity provision expressly preclude dual pay/compensation entitlement considerations under other Federal pay statutes.

24.16(b)(16)—Definition of "Regularly-scheduled administrative workweek"

Comment: Regarding the definition of "regularly-scheduled administrative workweek", the following sentence should be added, "This section is not meant to prohibit consideration of alternative work schedules at a local level" to reflect the provisions of 5 CFR 610.121 and Article 21, Section 3A of the National Agreement between Customs and the National Treasury Employees Union (NTEU).

Customs Response: The pay reform provisions of the 1993 Act do not affect or otherwise address the question of alternate work schedules (AWS), which has a separate statutory basis. See, 5 U.S.C. 6120 *et seq.* We believe that the addition of the requested sentence is unnecessary. Accordingly, no change to § 24.16(b)(16) is made.

24.16(d)—"Work assignment priorities"/(annuity integrity)

Comment: The NTEU objects to the inclusion of work assignment priorities provisions in the regulations (§ 24.16(d)), as these issues are negotiable under the terms of the Civil Service Reform Act. Especially objectionable is the inclusion of the overtime earnings "band" in § 24.16(d)(2).

Response: Customs agrees that the inclusion of the equalization provision in the work assignment priorities may be overbroad as written and could be subject to negotiations under the terms of the Civil Service Reform Act; however, Customs believes that the other two principles (alignment and least cost) are properly contained in the regulations, as they are in accordance with the provisions of 19 U.S.C. 267(d)(1), which require the Secretary of the Treasury to promulgate such regulations as will prevent the abuse of callback work assignments and commuting time compensation. Accordingly, § 24.16(d) is revised by deleting the equalization principle and replacing it with a more restricted "annuity integrity" principle that is more in accordance with the provisions of 19 U.S.C. 267(d)(2), which requires the Secretary to promulgate such regulations as will prevent the disproportionately more frequent assignment of overtime work to Customs Officers who are near to their retirement.

Annuity integrity is based on the average yearly amount of overtime Customs Officers worked during their career with Customs. Under annuity integrity the amount of overtime that can be worked by a Customs Officer who is within 3 years of his/her statutory retirement eligibility, see, 5 U.S.C. chapters 83 or 84, is limited to the average yearly number of overtime hours the Customs Officer worked during his/her career with the Customs Service. If the dollar value of the average yearly number of overtime hours worked by such Customs Officer exceeds 50 percent of the applicable statutory pay cap, then no overtime earning limitation based on this annuity integrity provision would apply. Waivers concerning this annuity integrity limitation may be granted by the Commissioner of Customs or the Commissioner's designee in individual cases in order to prevent excessive costs or to meet emergency requirements of Customs. Customs believes that this principle of annuity integrity is in accordance with the provisions of 19 U.S.C. 267(d)(2) and, as such, properly belongs in the regulations.

24.16(e)(2)(ii)—Including workers compensation benefits in list of payment categories for work not performed

Comment: The NTEU requests the inclusion of workers compensation benefits to the listing of categories for which Customs Officers may receive payment for work that is not performed.

Customs Response: Unlike the form of workers compensation enumerated in this section (continuation of pay under the workers compensation law, which is paid by the employing agency), workers compensation benefits—in the form of compensation for lost wages—are paid by the Department of Labor. See, 5 U.S.C. 8101 and 20 CFR part 10. As this latter form of workers compensation is not within the direct control of the Secretary of the Treasury, its inclusion at § 24.16(e)(2)(ii) would be inappropriate. Accordingly, no change to § 24.16(e)(2)(ii) is made.

24.16(f)(2)(v)—Payment of commute compensation

Comment: The commute compensation provisions include a section that a Customs Officer will not be paid for commute time if the overtime assignment begins 16 hours or more after the last regularly scheduled assignment. This section makes it extremely difficult for those inspectors that work Monday through Friday to serve the public on Saturdays and Sundays.

Customs Response: This eligibility condition for commute compensation is statutory. See, 19 U.S.C. 267(a)(2)(B)(ii)(I). Thus, Customs cannot deviate from the statutory requirements, but does note that the additional compensation—a flat 3 hours at the basic pay rate—is in addition to callback pay. Accordingly, no change to § 24.16(f)(2)(v) is made.

24.16(h)—Excluding workers compensation benefits from list of payment categories subject to pay cap limitations

Comment: The NTEU requests the exclusion of workers compensation benefits and back pay awards and settlements from the listing of categories not subject to any applicable pay cap calculations.

Customs Response: Regarding the exclusion of workers compensation benefits from the list of payment categories subject to pay cap limitations, for the reasons given above at § 24.16(e)(2)(ii), no change to § 24.16(h) is made. Regarding the exclusion of back pay awards and settlements, the current regulatory language provides that "awards made in accordance with back pay settlements" shall not be applied to any applicable pay cap calculations. This correctly conveys the fact that such awards are exempt. Accordingly, no change to § 24.16(h) is made concerning this point.

Additional Changes to the Regulations

In addition to the changes discussed above in connection with the analysis of comments, the regulatory texts as set forth below incorporate certain editorial or other non-substantive changes to the interim regulations to add clarity and improve the readability of the final regulations. The sections of the interim regulations affected by these changes are indicated below.

24.16(b)—Definitions

As the definitions of "commute compensation" (19 CFR 24.16(b)(5)), "overtime pay" (19 CFR 24.16(b)(13)), and "premium pay differential" (19 CFR 24.16(b)(15))—now denominated § 24.16(b)(14), see next paragraph below for explanation on redenomination—encompass similar elements pertaining to compensation, the wording of these three sections is recast to employ a parallel construction for ease of readability and to add clarity to their exclusive meanings.

Because of the change to § 24.16(d) discussed above under the Discussion of Comments, a definition for "participating group" (19 CFR 24.16(b)(14)) is no longer needed. Accordingly, in § 24.16(b), paragraphs (15) and (16) are redenominated paragraphs (14) and (15), respectively.

24.16(c)—Application and bond

Although the interim regulations did not make any changes to the provisions of § 24.16(c), because this section references Customs "employees" rather than Customs "Officers", the term "employee" in paragraphs (1) through (3) is replaced with the term "Officer" to reflect the new restricted application of § 24.16, as amended by the COPRA provisions of the 1993 Act. This change is made to make the provisions of paragraph (c) more harmonious with the rest of the provisions in § 24.16.

24.16(e)—Overtime pay

In paragraph (2)(i) of § 24.16(e), the second sentence regarding the rounding off of overtime work performed in increments other than a full quarter hour is deleted because it seeks to address a problem that is subject to negotiations under the terms of the Civil Service Reform Act.

In paragraph (2)(ii) of § 24.16(e), the last sentence is revised by deleting the words "for the work assignment" after "reports" and adding the words "as assigned" to make it clear that overtime pay is now restricted to hours assigned and worked.

24.16(f)—Commute Compensation

In paragraph (3) of § 24.16(f), the last sentence regarding the treatment of certain overtime work to prevent the inappropriate payment of commute compensation is deleted because it represents a regulatory attempt to correct a scheduling issue. The district director is responsible for and has discretion in scheduling appropriate overtime assignments.

In paragraph (4) of § 24.16(f), a stylistic change is made in the first sentence (changing the reference from "he" to "the officer") and a modification is made in the second sentence (allowing less than all overtime assignments to be treated as one continuous callback assignment) to give management more flexibility in the assignment of overtime work.

24.16(g)—Premium pay differentials

For the reasons given above concerning recasting three provisions in § 24.16(b) because the terms defined encompassed similar elements pertaining to compensation, the three provisions in § 24.16(g) pertaining to premium pay —paragraphs(g)(1) (Holiday differential), (g)(2) (Sunday differential), and (g)(3) (Night work differential)—are recast to employ a parallel construction for ease of readability and to add clarity to their exclusive meanings.

In paragraph (1)(iv) of § 24.16(g), the first sentence is revised and a second sentence is added to make it clear that where only one assigned shift is worked and any of those hours occur during the 24-hour calendar day of a holiday, the entire shift will be designated as a holiday and compensated at the holiday rate of pay. Also, a new paragraph (vi) is added to clarify the compensation computation where only a portion of a regularly-scheduled, non-overtime, holiday shift is worked.

134.55—Compensation of Customs Officers and employees

In paragraphs (b)(1) and (2) of § 134.55, a grammatical change is made to clarify which regulatory provisions (COPRA or FEPA) are applicable to provide compensation for which Customs personnel. The change provides that the COPRA compensation provisions of § 24.16 are applicable regarding overtime compensation and premium pay for Customs Officers, and that the FEPA compensation provisions of § 24.17 are applicable regarding overtime compensation for other Customs employees.

Conclusion

In consideration of the comments received, Customs believes that the interim Pay Reform for Customs Inspectional Services regulations, published as T.D. 94–2 in the **Federal Register** on December 28, 1993 (58 FR 68520), should be adopted as a final rule with certain changes thereto, as discussed above and set forth below.

The Regulatory Flexibility Act, and Executive Order 12866

Based on the supplementary information set forth above and because the amendments contained in this document reflect existing statutory requirements or merely implement interpretations and policies that are already in effect under interim regulations, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 4

Cargo vessels, Customs duties and inspection, Fishing vessels, Harbors, Imports, Maritime carriers, Merchandise, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Wages.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Air transportation, Baggage, Bonds, Customs duties and inspection, Freight, Imports, Reporting and recordkeeping requirements.

19 CFR Part 123

Administrative practice and procedure, Aircraft, Bonds, Canada, Customs duties and inspection, Imports, Mexico, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 134

Country of origin, Customs duties and inspection, Labeling, Marking, Packaging and containers.

Amendments to the Regulations

For the reasons stated above, the interim rule amending parts 4, 24, 122, 123, and 134 of the Customs Regulations (19 CFR parts 4, 24, 122, 123, and 134), which was published at 58 FR 68520–68526 on December 28, 1993 (T.D. 94–2), is adopted as a final rule with the following changes:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 261, 267, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1450, 1624; 31 U.S.C. 9701, unless otherwise noted.

2. In § 24.16:

a. Paragraph (b)(14) is removed, and paragraphs (b)(15) and (16) are redesignated paragraphs (b)(14) and (15) respectively;

b. Paragraphs (b)(5) and (13) and newly designated paragraph (b)(14) are revised;

c. The first two sentences in paragraph (c)(1), the first sentence in paragraph (c)(2), and paragraph (c)(3) are revised;

d. Paragraph (d) is amended by removing paragraph (d)(2), redesignating paragraph (d)(3) as paragraph (d)(2), and by adding a new paragraph (d)(3);

e. Paragraph (e) is amended by removing the second sentence in paragraph (e)(2)(i), and by revising paragraph (e)(2)(ii);

f. Paragraph (f) is amended by removing the last sentence in paragraph (f)(3), and by revising paragraph (f)(4);

g. Paragraph (g) is amended by revising the last sentence in the introductory text, revising the introductory text of paragraph (g)(1), revising paragraph (g)(1)(iv), adding a new paragraph (g)(1)(vi), revising paragraph (g)(2), and revising the introductory text of paragraph (g)(3).

The revisions and additions to read as follows:

§ 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.

* * * * *

(b) * * *

(5) "Commute compensation" means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for returning to work, under certain conditions, to perform an overtime work assignment. Commute compensation, within the limits prescribed by the Act, shall be treated as overtime compensation, and is includable for Federal retirement benefit purposes.

* * * * *

(13) "Overtime pay" means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for performing officially-assigned work in excess of the 40 hours of the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day, which may include commute compensation as defined at paragraph (b)(5) of this section. Overtime pay, within the limits prescribed by the Act, is includable for Federal retirement benefit purposes.

(14) "Premium pay differential" means the compensation which a Customs Officer is entitled to receive, in excess of the officer's base pay, for performing officially-assigned work on holidays, Sundays and at night. Premium pay is not includable for Federal retirement benefit purposes.

* * * * *

(c) *Application and bond.* (1) Except as provided for in paragraphs (c)(2) and (4) of this section, an application for inspectional services of Customs Officers at night or on a Sunday or holiday, Customs Form 3171, supported by the required cash deposit or bond, shall be filed in the office of the district director of Customs before the assignment of such officers for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the district director or authorized representative in an amount sufficient to pay the maximum probable compensation and expenses of the Customs Officers, or the maximum amount which may be charged by law, whichever is less, in connection with the particular services requested. * * *

(2) Prior to the expected arrival of a pleasure vessel or private aircraft the district director of Customs may designate a Customs Officer to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond. * * *

(3) An application on Customs Form 3171 for overtime services of Customs Officers, when supported by the required cash deposit or a continuous bond, may be granted for a period not longer than for 1 year. In such a case, the application must show the exact times when the overtime services will be needed, unless arrangements are made so that the proper Customs Officer will be notified timely during official hours in advance of the services requested as to the exact times that the services will be needed.

* * * * *

(d) * * *

(3) *Annuity integrity.* For Customs Officers within 3 years of their statutory retirement eligibility, the amount of overtime that can be worked is limited to the average yearly number of overtime hours the Customs Officer worked during his/her career with the Customs Service. If the dollar value of the average yearly number of overtime hours worked by such Customs Officer exceeds 50 percent of the applicable statutory pay cap, then no overtime earning limitation based on this annuity integrity provision would apply. Waivers concerning this annuity integrity limitation may be granted by the Commissioner of Customs or the Commissioner's designee in individual cases in order to prevent excessive costs or to meet emergency requirements of Customs.

(e) * * *

(2) * * *

(ii) *Absence during overtime.* Except as expressly authorized by statute, regulation, or court order (i.e., military leave, court leave, continuation of pay under the workers compensation law, and back pay awards), a Customs Officer shall be paid for overtime work only when the officer reports as assigned.

(f) * * *

(4) *Maximum Compensation for Multiple Assignments.* If a Customs Officer is assigned to perform more than one overtime assignment, in which the officer is required to return to a place of work more than once in order to complete the assignment, and otherwise satisfies the callback requirements of paragraph (f)(1) of this section, then the officer shall be entitled to commute compensation each time the officer returns to the place of work provided that each assignment commences less than 16 hours after the officer's last regularly-scheduled work assignment. However, in no case shall the compensation be greater than if some or all of the assignments were treated as one continuous callback assignment.

(g) *Premium pay differentials.* * * * The order of precedence for the payment of premium pay differentials is holiday, Sunday, and night work.

(1) *Holiday differential.* A Customs Officer who performs any regularly-scheduled work on a holiday shall receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to 100 percent of that base rate.

Holiday differential premium pay will be paid only for time worked. Intermittent employees are not entitled to holiday differentials.

* * * * *

(iv) If a Customs Officer is assigned to a regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the 24-hour calendar day of a holiday—for example, a tour of duty starting at 8 p.m. on a Monday holiday following a scheduled day off

on Sunday and ending at 4 a.m. on Tuesday—the Customs Officer shall receive the holiday differential (up to 8 hours) for work performed during that shift. If the Customs Officer is assigned more than one regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the 24-hour calendar day of a holiday—for example, a tour of duty starting at 8 p.m. on the Wednesday before a Thursday holiday and ending at 4 a.m. on Thursday with another regularly-scheduled, non-overtime, tour of duty starting at 8 p.m. on the Thursday holiday and ending at 4 a.m. on Friday—the management official in charge of assigning work shall designate one of the tours of duty as the officer's holiday shift and the officer shall receive holiday differential (up to 8 hours) for work performed during the entire period of the designated holiday shift. The Customs Officer shall not receive holiday differential for any of the work performed on the tour of duty which has not been designated as the holiday shift but will be eligible for Sunday or night differential as appropriate.

* * * * *

(vi) A Customs Officer who works only a portion of a regularly-scheduled, non-overtime, holiday shift will be paid the holiday differential for the actual hours worked and the appropriate differential (Sunday or night) for the remaining portion of the shift such officer was not required to work. The night differential premium pay shall be calculated based on the rate applicable to the entire shift.

(2) *Sunday differential.* A Customs Officer who performs any regularly-scheduled work on a Sunday that is not a Federal holiday shall receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to 50 percent of that base rate. Sunday differential premium pay will be paid only for time worked and is not applicable to overtime work performed on a Sunday. A Customs Officer whose regularly-scheduled work occurs in part on a Sunday, that is not a Federal holiday, and in part on the preceding or following day, will receive the Sunday differential premium pay for the hours worked between 12:01 a.m. and 12 Midnight on Sunday. Intermittent employees are not entitled to Sunday differentials.

(3) *Night work differentials.* A Customs Officer who performs any regularly-scheduled night work shall receive pay for that work at the officer's hourly rate of base pay, including locality pay as authorized, plus the applicable premium pay differential, as specified below, but shall not receive such night differential for work performed during overtime assignments. When all or the majority of the hours of a Customs Officer's regularly-scheduled work occur between 3 p.m. and 8 a.m., the officer shall receive a night differential premium for all the hours worked during that assignment. Intermittent employees are not entitled to night differentials.

* * * * *

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1304, 1624.

2. In § 134.55, paragraph (b) is revised to read as follows:

§ 134.55 Compensation of Customs Officers and employees.

* * * * *

(b) *Applicability*—(1) *Official hours.* The compensation of Customs Officers or employees assigned to supervise the exportation, destruction, or marking of articles so as to exempt them from the application of marking duties shall be computed in accordance with the provisions of §§ 24.16 or 24.17(a)(3), respectively, of this chapter when such supervision is performed during a regularly-scheduled tour of duty.

(2) *Overtime.* When such supervision is performed by a Customs Officer or employee in an overtime status, the compensation with respect to the overtime shall be computed in accordance with the provisions of § 24.16 or § 24.17, respectively, of this chapter.

* * * * *

George J. Weise,

Commissioner of Customs.

Approved: August 12, 1994.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–22415 Filed 9–9–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Alpha-Ethyltryptamine Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to place alpha-ethyltryptamine (AET) into Schedule I of the Controlled Substances Act (CSA). This action is based on findings made by the Deputy Administrator of the DEA, after review and evaluation of the relevant data by both the DEA and the Assistant Secretary for Health, Department of Health and Human Services, that AET meets the statutory criteria for inclusion in Schedule I of the CSA. Since this substance has been temporarily placed into Schedule I, the regulatory control mechanisms and criminal sanctions of Schedule I continue to be applicable to the manufacture, distribution, importation and exportation of AET.

EFFECTIVE DATE: September 12, 1994.

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

SUPPLEMENTARY INFORMATION: On March 12, 1993, the Administrator of the DEA published a final rule in the **Federal Register** (58 FR 13533) amending § 1308.11(g) of Title 21 of the Code of Federal Regulations to temporarily place AET into Schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). This final rule, which became effective on the date of publication, was based on a finding by the Administrator that the temporary scheduling of AET was necessary to avoid an imminent hazard to the public safety. The CSA (21 U.S.C. 811(h)(2)) requires that the temporary scheduling of a substance expires at the end of one year from the effective date of the order. However, if proceedings to schedule a substance pursuant to 21 U.S.C. 811(a)(1) have been initiated and are pending, the temporary scheduling of a substance may be extended for up to six months. Under this provision, the temporary scheduling of AET which would have expired on March 12, 1994, was extended to September 12, 1994 by

the Acting DEA Administrator (59 FR 10720)

On March 7, 1994 in a notice of proposed rulemaking published in the **Federal Register** (59 FR 10718) and after a review of relevant data, the Acting DEA Administrator proposed to place AET into Schedule I of the CSA pursuant to 21 U.S.C. 811(a). Prior to that time the Acting DEA Administrator submitted data which DEA gathered regarding AET to the Assistant Secretary for Health, delegate of the Secretary of the Department of Health and Human Services. In accordance with 21 U.S.C. 811(b), the Acting DEA Administrator also requested a scientific and medical evaluation and a scheduling recommendation for AET from the Assistant Secretary for Health.

By letter dated August 30, 1994, the Deputy Administrator for the DEA received the scientific and medical evaluation and scheduling recommendation from the Assistant Secretary for Health. The Assistant Secretary recommended that AET be placed into Schedule I of the CSA based on a scientific and medical evaluation of the available data.

The notice of proposed rulemaking for AET provided the opportunity for interested parties to submit comments, objections or requests for a hearing regarding the scheduling of AET. No comments, objections or requests for hearings were received regarding the scheduling of AET.

Alpha-ethyltryptamine has been classified as a tryptamine hallucinogen. Chemically it is α-ethyl-1H-indole-3-ethanamine or 3-(2-aminobutyl)indole. It is structurally similar to N,N-dimethyltryptamine (DMT) and N,N-diethyltryptamine (DET) both of which are controlled in Schedule I of the CSA. Available data indicate that AET produces some pharmacological effects qualitatively similar to those of other Schedule I hallucinogens. Recent data suggests that AET may produce neurotoxicity similar to the neurotoxic effects produced by MDMA (3,4-methylenedioxymethamphetamine) and PCA (para-chloroamphetamine).

Alpha-ethyltryptamine acetate was marketed by the Upjohn Company in 1961 as an antidepressant under the trade name of Monase. After less than one year of marketing, Upjohn withdrew its New Drug Application when it became apparent that Monase administration was associated with the development of agranulocytosis. The Food and Drug Administration (FDA) has notified the DEA that there are no exemptions or approvals in effect under section 505 of the Federal Food, Drug, and Cosmetic Act for AET. A search of the scientific and medical literature revealed no indications of current medical use of AET in the United States.

The DEA first encountered AET in 1986 at a clandestine laboratory in Nevada. Several exhibits of AET have been analyzed by the DEA and state forensic laboratories since 1989. Individuals in Colorado and Arizona have purchased several kilograms of this substance as the acetate salt from chemical supply companies and have distributed and sold quantities to individuals for the purpose of human consumption. Touted as a MDMA-like substance, it has been trafficked as "TRIP" or "ET". Distribution has been primarily among high school and college-aged individuals. In Arizona, the death of a nineteen year old female was attributed to acute AET toxicity. Illicit use of AET has been documented in both Germany and Spain where at least two deaths have resulted from AET overdose.

Based upon the investigation and review conducted by DEA and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health received in accordance with 21 U.S.C. 811(b), the Deputy Administrator for the DEA, pursuant to the provisions of 21 U.S.C. 811 (a) and (b), finds that:

(1) AET has a high potential for abuse;

(2) AET has no currently accepted medical use in treatment in the United States; and,

(3) There is a lack of accepted safety for use of AET under medical supervision.

These findings are consistent with the placement of AET into Schedule I of the CSA.

All regulations applicable to Schedule I substances continue to be in effect as of September 12, 1994 with respect to AET. This substance has been in Schedule I pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h) since March 12, 1993. The current applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports AET or who engages in research or conducts instructional activities with respect to AET, or who proposes to engage in such activities, must be registered to conduct such activity in accordance with parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Alpha-ethyltryptamine must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of AET must comply with §§ 1302.03–1302.05, 1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* All persons required to obtain quotas for AET shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Every registrant required to keep records and who possesses any quantity of AET shall take an inventory of all stocks of AET on hand pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations.

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on AET.

7. *Reports.* All registrants required to submit reports pursuant to §§ 1304.34–1304.37 of Title 21 of the Code of Federal Regulations shall do so regarding AET.

8. *Order Forms.* All registrants involved in the distribution of AET must comply with §§ 1305.01–1305.16 of Title 21 of the Code of Federal Regulations.

9. *Importation and Exportation.* All importation and exportation of AET shall be in compliance with part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* Any activity with respect to AET not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act shall be unlawful.

The Deputy Administrator of the DEA hereby certifies that the placement of AET into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the control of a substance with no currently accepted medical use in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this scheduling action is a formal rulemaking. Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, 3(d)(1).

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

List of Subjects in 21 CFR Part 1308

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

Under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated by the Administrator to the Deputy Administrator pursuant to 28 CFR 0.104 (59 FR 23637 (May 6, 1994)), the Deputy Administrator hereby orders that 21 CFR Part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871b, unless otherwise noted.

2. Section 1308.11 is amended by redesignating paragraphs (d)(1) through (d)(29) as (d)(2) through (d)(30) and by adding paragraph (d)(1) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(1) Alpha-ethyltryptamine.....7249

Some trade or other names: etryptamine; Monase; α-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α-ET; and AET.

* * * * *

§ 1308.11 [Amended]

3. Section 1308.11 is further amended by removing paragraph (g)(3) and redesignating paragraph (g)(4) as (g)(3).

Dated: September 2, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94–22417 Filed 9–9–94; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 103

[Docket No. R–94–1744; FR–3754–C–02]

Fair Housing Complaint Processing: Technical Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule: Technical correction.

SUMMARY: On August 5, 1994 (59 FR 39955), HUD published a final rule that amended its Fair Housing Complaint Processing regulations. The purpose of this document is to correct an error that appeared in § 103.400(a)(2)(i) and an error that appeared in the amendatory instruction for item 4 that directs the changes to be made to § 103.405.

EFFECTIVE DATE: September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Sara K. Pratt, Director, Office of Investigations, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 5206, Washington, D.C. 20410–2000; telephone (202) 708–0836; TDD (202) 708–0015. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Sections 812 (g) and (h) of the Fair Housing Act authorize the Secretary to make determinations of reasonable cause to believe that a discriminatory housing practice has occurred. Section 810(c) authorizes the Secretary to refer to the Attorney General matters involving possible breaches of conciliation agreements by respondents for enforcement. Regulations found at 24 CFR parts 103 and 104 govern the conduct of investigations under the Act by the Assistant Secretary and the taking of enforcement action in a number of situations.

On August 5, 1994 (59 FR 39955), HUD published a final rule that amended its Fair Housing Complaint Processing regulations, which are codified in 24 CFR part 103. The purpose of the August 5, 1994 final rule was to advise the public that the Assistant Secretary for Fair Housing and Equal Opportunity (and the Deputy Assistant Secretary for Investigations and Enforcement), rather than the General Counsel, is authorized (1) to make and issue determinations that reasonable cause exists to believe that a discriminatory housing practice has occurred and direct the issuance of charges based on such determinations, and (2) to refer matters involving possible breaches of conciliation agreements to the Attorney General.

This authority was previously delegated to HUD's General Counsel and Deputy General Counsel by the Secretary. Through the August 5, 1994 final rule, the Secretary transferred the delegation of this authority from the General Counsel and the Deputy General Counsel to the Assistant Secretary for Fair Housing and Equal Opportunity and the Deputy Assistant Secretary for Investigations and Enforcement. In transferring this delegation, however, the Secretary intended for the General Counsel to be consulted and to concur in a determination of reasonable cause before the Assistant Secretary for Fair Housing and Equal Opportunity directs the issuance of such a charge. The language requiring concurrence of the General Counsel in reasonable cause determinations was inadvertently omitted from the August 5, 1994 final rule, and therefore does not correctly reflect the Secretary's intended delegation of authority on this matter. The purpose of this document is to correct this error.

Accordingly, FR Doc. 94–19178, a final rule published in the **Federal Register** on August 5, 1994 (59 FR 39955) is corrected to read as follows:

1. In the preamble, on page 39955, in the second column, under the heading "Supplementary Information," the second and third paragraphs under this heading are corrected to read as follows:

This rule amends portions of 24 CFR part 103 to advise that the Assistant Secretary for Fair Housing and Equal Opportunity (and the Deputy Assistant Secretary for Investigations and Enforcement) is authorized, with the concurrence of the General Counsel, to make and issue determinations that reasonable cause exists to believe that a discriminatory housing practice has occurred and to direct the issuance of charges based on such determinations. The Assistant Secretary also is authorized to refer matters involving possible breaches of conciliation agreements to the Attorney General.

This authority was previously delegated to the General Counsel and Deputy General Counsel of the Department by the Secretary. Through this final rule, the Secretary has now transferred the delegation of this authority from the General Counsel and the Deputy General Counsel to the Assistant Secretary. However, before determining that reasonable cause exists to believe that discriminatory housing practice has occurred, and directing the issuance of a charge based on that determination, the Assistant Secretary must receive the concurrence of the General Counsel.

2. On page 39956, in § 103.400, in column one, correct paragraph (a)(2)(i) to read:

§ 103.400 Reasonable cause determination.

(a) * * *

(2) * * *

(i) If the Assistant Secretary determines that reasonable cause exists, the Assistant Secretary, upon receipt of concurrence of the General Counsel, will issue such determination and direct the issuance of a charge under § 103.405 on behalf of the aggrieved person, and shall notify the complainant and the respondent of this determination by certified mail or personal service.

* * * * *

3. On page 39956, in the second column, correct the amendatory

instruction in item #4, and remove the new sentence at the beginning of paragraph (b) in § 103.405 as follows:

4. In § 103.405, paragraph (a)(1) is amended by removing the words "General Counsel" and inserting in their place the words "Assistant Secretary."

Dated: September 7, 1994.

Brenda Gladden,

Assistant General Counsel for Regulations (Acting).

[FR Doc. 94–22418 Filed 9–9–94; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations pertaining to the Department of the Navy's Freedom of Information Act Program. The rule reflects changes in the Secretary of the Navy Instruction 5720.45 from which it is derived, and also incorporates changes from governing Department of Defense regulations. The sections contained in this rule have been renumbered to avoid confusion with 32 CFR Part 701 subpart D.

EFFECTIVE DATE: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Lieutenant Sulik, Office of the Judge Advocate General (Administrative Law Division), 200 Stovall Street, Alexandria, VA 22332–2400, (703) 614–1781.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 701, subpart E, derived from the Secretary of the Navy Instruction 5720.45, which implements within the Department of the Navy the provisions of Department of Defense Directives 5400.7 and 5400.7–R series, Department of Defense Freedom of Information Act Program (32 CFR Part 286), and Department of Defense Directive 5400.9, Publications of Proposed and Adopted Regulations Affecting the Public (32 CFR Part 336). This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on these changes to the Department of the Navy's implementing instruction prior to adoption would be impracticable and unnecessary, and it is therefore not required under the public rulemaking provisions of 32 CFR Parts 336 and 701, subpart E. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions to 32 CFR Part 701, subpart E, or the instruction upon which it is based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Lieutenant Sulik, Office of the Judge Advocate General (Administrative Law Division), 200 Stovall Street, Alexandria, VA 22332–2400. It has been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291 and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 701

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, 32 CFR Part 701 is amended as follows:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

1. The authority citation for Part 701 continues to read as follows:

Authority: 5 U.S.C. § 552.

2. Part 701 is amended by revising subpart E to read as follows:

Subpart E—Indexing, Public Inspection, and **Federal Register** Publication of Department of the Navy Directives and Other Documents Affecting the Public.

Sec.

701.61 Purpose.
701.62 Scope and applicability.
701.63 Policy.
701.64 Publication of adopted regulatory documents for the guidance of the public.
701.65 Availability, public inspection, and indexing of other documents affecting the public.
701.66 Publication of proposed regulations for public comment.
701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public.

§ 701.61 Purpose.

This subpart implements 5 U.S.C. 552(a)(1) and (2) and provisions of Department of Defense Directive 5400.7, May 13, 1988 (32 CFR part 286, 55 FR 53104); Department of Defense Directive 5400.9, December 23, 1974 (32 CFR part 336, 40 FR 4911); and the Regulations of the Administrative Committee of the Federal Register (1 CFR chaps. I and II) by delineating responsibilities and prescribing requirements, policies, criteria, and procedures applicable to:

(a) Publishing the following Department of the Navy documents in the **Federal Register:**

(1) Certain classes of regulatory, organizational, policy, substantive, and procedural documents required to be published for the guidance of the public;

(2) Certain classes of proposed regulatory documents required to be published for public comment prior to issuance; and

(3) Certain public notices required by law or regulation to be published;

(b) Making available, for public inspection and copying, certain classes of documents having precedential effect on decisions concerning members of the public;

(c) Maintaining current indexes of documents having precedential effect on decisions concerning members of the public, and publishing such indexes or making them available by other means;

(d) Receiving and considering petitions of members of the public for the issuance, revision, or cancellation of regulatory documents of some classes; and

(e) Distributing the **Federal Register** for official use within the Department of the Navy.

§ 701.62 Scope and applicability.

This subpart prescribes actions to be executed by, or at the direction of, Navy Department [as defined in § 700.104(c) of this chapter] components and specified headquarters activities for apprising members of the public of Department of the Navy regulations, policies, substantive and procedural rules, and decisions which may affect them, and for enabling members of the public to participate in Department of the Navy rulemaking processes in matters of substantial and direct concern to the public. This subpart complements subpart A, which implements Navy-wide requirements for furnishing documents to members of the public upon request. That a document may be published or indexed and made available for public inspection and copying under this instruction does not affect the possible requirement under subpart A for producing it for examination, or furnishing a copy, in response to a request made under that subpart.

§ 701.63 Policy.

In accordance with the spirit and intent of 5 U.S.C. 552, the public has the right to the maximum information concerning the organization and functions of the Department of the Navy. This includes information on the policies and the substantive and procedural rules used by the Department of the Navy in its dealings with the public. In accordance with Department of Defense policy described in 32 CFR part 336, 40 FR 4911, moreover, the public is encouraged to participate in Department of the Navy rulemaking when the proposed rule would substantially and directly affect the public.

§ 701.64 Publication of adopted regulatory documents for the guidance of the public.

(a) *Classes of documents to be published.* Subject to the provisions of 5 U.S.C. 552(b) which exempt specified matters from requirements for release to the public [see subpart B of this part], the classes of Department of the Navy documents required to be published on a current basis in the **Federal Register** are listed below.

(1) *Naval organization and points of contact*—descriptions of the central and field organization of the Department of the Navy and the locations at which, the members or employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) *Methods and procedures for business with the public*—statements of the general course and methods by which Department of the Navy functions affecting members of the public are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) *Procedural rules and forms*—rules of procedure for functions affecting members of the public, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations required to be submitted under such rules of procedures; and

(4) *Substantive rules and policies*—substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Department of the Navy. Such rules are commonly contained in directives, manuals, and memorandums.

(i) *"General applicability" defined.* The definition prescribed in 1 CFR 1.1 pertains to the classes of documents contemplated in § 701.64(b)(4).

(ii) *Internal personnel rules and internal practices.* In addition to the other exemptions listed in 5 U.S.C. 552(b) and subpart B of this part, particular attention is directed to the exemption pertaining to internal personnel rules and internal practices.

(iii) *Local regulations.* It is unnecessary to publish in the **Federal Register** a regulation which is essentially local in scope or application, such as a directive issued by a base commander in the implementation of his responsiblity and authority under subpart G of part 700 of this title for guarding the security of the installation or controlling the access and conduct of visitors or tradesmen. However, such publication may be authorized under extraordinary circumstances, as determined by the Chief of Naval Operations or the Commandant of the Marine Corps, as appropriate, with the concurrence of the Judge Advocate General.

(iv) *Incorporation by reference.* With the approval of the Director of the Federal Register given in the limited instances authorized in 1 CFR Part 51 and 32 CFR 336.5(c), the requirement for publication in the **Federal Register** may be satisfied by reference in the **Federal Register** to other publications containing the information which must otherwise be published in the **Federal Register**. In general, matters eligible for incorporation by reference are restricted to materials in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information which are reasonably available to members of the class affected.

(b) *Public inspection.* When feasible, Department of the Navy and Department of Defense documents published in the **Federal Register** should be made available for inspection and copying, along with available indexes of such documents, in the same locations used for public inspection and copying of the documents contemplated in § 701.65.

§ 701.65 Availability, public inspection, and indexing of other documents affecting the public.

(a) *Discussion.* Section 552(a) of title 5, United States Code, requires the Department of the Navy to make available for public inspection and copying documents which have precedential significance on those Department of the Navy decisions which affect the public. These documents must be kept readily available for public inspection and copying at designated locations, unless they are promptly published and copies are offered for sale. Additionally, documents issued after July 4, 1967, are required to be indexed on a current basis. These indexes, or supplements thereto, must be published at least quarterly in accordance with the provisions of this paragraph. In determining whether a particular document is subject to the requirements of this paragraph, consideration should be given to the statutory purposes and legal effect of the provisions.

(1) *Statutory purposes.* In general, the purpose of the requirement to provide members of the public with essential information is to enable them to deal effectively and knowledgeably with Federal agencies; to apprise members of the public of the existence and contents of documents which have potential legal consequences as precedents in administrative determinations which may affect them; and to permit public examination of the basis for administrative actions which affect the public.

(2) *Legal effect.* If a document is required to be indexed and made available under this paragraph, it may not be used or asserted as a precedent against a member of the public unless it was so indexed and made available, or unless the person against whom it is asserted had actual and timely notice of its contents.

(b) *Classes of documents affected.* (1) Subject to the provisions of 5 U.S.C. 552(b) which exempt specified matters from the requirements of public disclosure, the following classes of Department of the Navy documents are included in the requirements of this paragraph:

(i) *Final adjudicative opinions and orders*—opinions (including concurring and dissenting opinions) and orders which are issued as part of the final disposition of adjudication proceedings (as defined in 5 U.S.C. 551) and which may have precedential effect in the disposition of other cases affecting members of the public;

(ii) *Policy statements and interpretations*—statements of policy and interpretations of less than general applicability (i. e., applicable only to specific cases; organizations, or persons), which are not required to be published in the **Federal Register**, but which may have precedential effect in the disposition of other cases affecting members of the public;

(iii) *Manuals and instructions*—administrative staff manuals, directives, and instructions to staff, or portions thereof, which establish Department of the Navy policy or interpretations of policy that serve as a basis for determining the rights of members of the public with regard to Department of

the Navy functions. In general, manuals and instructions relating only to internal management aspects of property or fiscal accounting, personnel administration, and most other "proprietary" functions of the department are not within the scope of this provision. This provision also does not apply to instructions for employees on methods, techniques, and tactics to be used in performing their duties; for example:

(A) Instructions or manuals issued for audit, investigation, and inspection purposes;

(B) Those which prescribe operational tactics; standards of performance; criteria for defense, prosecution, or settlement of cases; or negotiating or bargaining techniques, limitations, or positions; and

(C) Operations and maintenance manuals and technical information concerning munitions, equipment, and systems, and foreign intelligence operations.

(2) In determining whether a document has precedential effect, the primary test is whether it is intended as guidance to be followed either in decisions or evaluations by the issuing authority's subordinates, or by the issuing authority itself in the adjudication or determination of future cases involving similar facts or issues. The kinds of orders or opinions which clearly would have precedential effect are those that are intended to operate both as final dispositions of the questions involved in the individual cases presented, and as rules of decision to be followed by the issuing authority or its subordinates in future cases involving similar questions. By contrast, many adjudicative orders and opinions issued within the Department of the Navy operate only as case-by-case applications of policies or interpretations established in provisions of manuals or directives and are not themselves used, cited, or relied on as rules of decision in future cases. In these instances, the underlying manual or directive provisions obviously would have precedential effect, but the orders and opinions themselves would not have. A recommendation by an official who is not authorized to adjudicate, or to issue a binding statement of policy or interpretation in a particular matter would not have precedential effect, though an order, opinion, statement of policy, or interpretation issued by an authorized official pursuant to such recommendation might have that effect.

(c) *Deletion of identifying details.* (1) Although the exemptions from public disclosure described in 5 U.S.C. 552 and subpart B of this part are applicable to documents which are required to be indexed and made available for public inspection and copying under this paragraph, there is no general requirement that any segregable portions of partially exempt documents be so indexed and made available for public inspection and copying. As a general rule, a record may therefore be held exempt in its entirety from the requirements of this paragraph if it is determined that it contains exempt matter and that it is reasonably foreseeable that disclosure would be harmful to an interest protected by that exemption. An exception to this general rule does exist with regard to a record which would be exempt only because it contains information which, if disclosed, would result in a clearly unwarranted invasion of privacy.

(2) Where necessary to prevent a clearly unwarranted invasion of a person's privacy, identifying details should be deleted from a record which is required to be indexed and made available for public inspection and copying under this paragraph. In every such case, the justification for the deletion must be fully stated in writing in a manner which avoids creating inferences that could be injurious to the person whose privacy is involved. Usual reasons for deletion of identifying details include protection of privacy in a person's business affairs, medical matters, or private family matters; humanitarian considerations; and avoidance of embarrassment to a person.

(d) *Publication of indexes*—(1) *Form of indexes.* Each index should be arranged topically or by descriptive words, so that members of the public may be able to locate the pertinent documents by subject, rather than by case name or by a numbering system.

(2) *Time of publication.* Each component having cognizance of records required under this paragraph to be indexed shall compile and maintain an index of such records on a continually current basis. Each such index was required to initially be published by July 1, 1975. An updated version of each such index, or a current supplement thereto, shall be published by an authorized method at least annually thereafter.

(3) *Methods of publication.* The methods authorized for publication of the indexes contemplated in this paragraph are:

(i) Publication in the **Federal Register**;

(ii) Commercial publication, provided that such commercial publication is readily available to members of the public, or will be made available upon request and payment of costs (if this method is utilized, information on the cost of copies and the address from which they may be obtained shall be published in the **Federal Register**); or

(iii) Furnishing internally reproduced copies upon request, at cost not to exceed the direct cost of duplication in accordance with subpart D of this part, provided that it is determined, by an order published in the **Federal Register**, that the publication of the index by methods § 701.65(d)(3) (i) or (ii) would be unnecessary or impracticable. Such order shall state the cost of copies and the address from which they may be obtained. The Chief of Naval Operations (N09B30) is authorized to issue such an order in a proper case.

(4) *Public inspection of indexes.* In addition to publication by one of the foregoing methods, each index will be made available for public inspection and copying in accordance with § 701.65(e) at the locations where Department of the Navy records are available for public inspection.

e. *Where records may be inspected.* Locations and times at which Department of the Navy records, and indexes thereof, are available for public inspection and copying are shown in § 701.32.

(f) *Cost.* Fees for copying services, if any, furnished at locations shown in § 701.32 shall be determined in accordance with subpart D of this part.

(g) *Records of the United States Navy-Marine Corps Court of Military Review.* The United States Navy-Marine Corps Court of Military Review is deemed to be a "court of the United States" within the meaning of 5 U.S.C. 551 and is therefore excluded from the requirements of 5 U.S.C. 552. Nevertheless, unpublished decisions of the United States Navy-Marine Corps Court of Military Review, although not indexed, are available for public inspection at the location shown in § 701.32(c).

§ 701.66 Publication of proposed regulations for public comment

(a) *Discussion.* The requirements of this section are not imposed by statute, but are the implementation of policies and procedures created administratively in 32 CFR part 336. In effect, the pertinent provisions of 32 CFR part 336 establish, within the Department of Defense and its components, procedures that are analogous to the public rulemaking procedures applicable to some functions of other Federal agencies under 5 U.S.C. 553. While the administrative policy of encouraging the maximum practicable public participation in the Department of the Navy rulemaking shall be diligently followed, determinations by the

Department of the Navy as to whether a proposed regulatory requirement originated by it comes within the purview of this paragraph and the corresponding provisions of 32 CFR part 336, and as to whether inviting public comment is warranted, shall be conclusive and final.

(b) *Classes of documents affected.* Each proposed regulation or other document of a class described in § 701.64(a) (or a proposed revision of an adopted document of any of those classes) which would "originate" within the Department of the Navy a requirement of general applicability and future effect for implementing, interpreting, or prescribing law or policy, or practice and procedure requirements constituting authority for prospective actions having substantial and direct impact on the public, or a significant portion of the public, must be evaluated to determine whether inviting public comment prior to issuance is warranted. Documents that merely implement regulations previously issued by higher naval authorities or by the Department of Defense will not be deemed to "originate" requirements within the purview of this section. If a proposed document is within the purview of this section, publication to invite public comment will be warranted unless, upon evaluation, it is affirmatively determined both that a significant and legitimate interest of the Department of the Navy or the public will be served by omitting such publication for public comment, and that the document is subject to one or more of the following exceptions:

(1) It pertains to a military or foreign affairs function of the United States which has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy;

(2) It relates to naval management, naval military or civilian personnel, or public contracts (e.g., Navy Procurement Directives), including nonappropriated fund contracts;

(3) It involves interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(4) It is determined with regard to the document, for good cause, that inviting public comment is impracticable, unnecessary, or contrary to the public interest.

(c) *Procedures*—(1) *Normal case.* Unless the official having cognizance of a proposed regulatory document determines under the criteria of § 701.66(b) that inviting public comment is not warranted, he or she shall cause it to be published in the **Federal Register** with an invitation for the public to submit comments in the form of written data, views, or arguments during a specified period of not less than 30 days following the date of publication. An opportunity for oral presentation normally will not be provided, but may be provided at the sole discretion of the official having cognizance of the proposed directive if he or she deems it to be in the best interest of the Department of the Navy or the public to do so. After careful consideration of all relevant matters presented within the period specified for public comment, the proposed document may be issued in final form. After issuance, the adopted document, and a preamble explaining the relationship of the adopted document to the proposed document and the nature and effect of public comments, shall be published in the **Federal Register** for the guidance of the public.

(2) *Where public comment is not warranted.* The official having cognizance of a proposed document within the purview of this paragraph shall, if he or she determines that inviting public comment concerning the document is not warranted under the criteria of § 701.66(b), incorporate that determination, and the basis therefor, in the document when it is issued or submitted to a higher authority for issuance. After issuance, such document shall be published in the **Federal Register** for the guidance of the public, if required under § 701.64(b).

§ 701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public

In accordance with the provisions of 32 CFR part 336, the Department of the Navy shall accord any interested person the right to petition, in writing, for the issuance, revision, or cancellation of regulatory document that originates, or would originate, for the Department of the Navy, a policy, requirement, or procedure which is, or would be, within the purview of § 701.66. The official having cognizance of the particular regulatory document involved, or having cognizance of the subject matter of a proposed document, shall give full and prompt consideration to any such petition. Such official may, at his or her absolute discretion, grant the petitioner an opportunity to appear, at his or her own expense, for the purpose of supporting the petition, if this is deemed to be compatible with orderly conduct of public business. The petitioner shall be advised in writing of the disposition, and the reasons for the disposition, of any petition within the purview of this section.

Dated: August 19, 1994.

Lewis T. Booker,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–21716 Filed 9–9–94; 8:45 am]

BILLING CODE 3810–AE–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH63–3–6652; OH64–3–6653; FRL–5068–9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule; removal.

SUMMARY: On July 26, 1994, the USEPA published a final rule, through the "direct final" procedure, approving two exemption requests from the requirements contained in Section 182(f) of the Clean Air Act (Act) for the Toledo and Dayton ozone nonattainment areas in Ohio. See 59 FR 37947. The USEPA is removing this final rule due to adverse comments received on this action. In a subsequent final rule, USEPA will summarize and respond to the comments received on these exemption requests from the State of Ohio.

EFFECTIVE DATE: September 12, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location:

United States Environmental Protection Agency, Region 5, Air Enforcement Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Richard Schleyer, Environmental Engineer, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353–5089.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: August 30, 1994.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

§ 52.1879 Review of new sources and modifications.

§ 52.1879 [Amended]

2. Section 52.1879 is amended by removing paragraph (f).

§ 52.1885 Control Strategy: Ozone.

§ 52.1885 [Amended]

3. Section 52.1885 is amended by removing paragraph (r).

[FR Doc. 94–22399 Filed 9–9–94; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[WA17–1–5867a and WA16–1–5866a; FRL–5065–3]

Approval and Promulgation of Emission Statement Implementation Plan; Washington State

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submitted by the State of Washington for the purpose of implementing an emission statement program for stationary sources within the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Area. The implementation plan was submitted by the State to satisfy the Federal requirements for an emission statement program as part of the SIP for Washington State.

DATES: This final rule will be effective on November 14, 1994 unless adverse or critical comments are received by October 12, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Region 10, Air Programs Development Section (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Development Section, 1200 Sixth Avenue, Seattle, Washington 98101, and the Washington State Department of Ecology, 300 Desmond Drive, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, EPA, Region 10, Air Programs Development Section (AT–082), Seattle, Washington 98101, (206) 553–6917.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (CAA or "the Act"). EPA has published a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the CAA, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ("SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"), 57 FR 18070 (April 28, 1992) ("Appendices to the General Preamble"), and 57 FR 55620 (November 25, 1992) ("SIP: NO_x Supplement to the General Preamble")).

EPA has also issued a draft guidance document describing the requirements for the emission statement programs discussed in this document, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify part 40 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable in subsections (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program in paragraph (3) of that subsection for stationary sources to prepare and submit to the State each year emission statements showing actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x). This paragraph provides that the States are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

The CAA requires facilities to submit the first emission statement to the State within three years after November 15, 1990, and annually thereafter. EPA requests that the States submit the emission data to EPA through the Aerometric Information Retrieval System (AIRS). The minimum emission statement data should include: certification of data accuracy; source identification information; operating schedule; emissions information (to include annual and typical ozone season day emissions); control equipment information; and process data. EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

In addition to the submission of the emission statement data to AIRS, States should provide EPA with a status report that outlines the degree of compliance with the emissions statement program. Beginning July 1, 1993, States should report quarterly to EPA the total number of sources affected by the emission statement provisions, the number that have complied with the provisions, and the number that have not. This status report should also include the total annual and typical ozone season day emissions from all reporting sources, both corrected and non-corrected for rule-effectiveness (RE). States should include in their status report a list of sources that are delinquent in submitting their emission statement and that emit 500 tons per year (tpy) or more of VOC or 2500 tpy or more of NO_x. This report should be a quarterly submittal until all the regulated sources have complied for the reporting year. Suggested submittal dates for the quarterly status reports are July 1, October 1, January 1, and April 1.

II. Analysis of State Submission

There are several key general and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting by the sources and the State. In general, the program must include, at a minimum, provisions for applicability, definitions, compliance, and specific source requirements detailed below.

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing its SIP, of which the emission statement program will become a part. Sections 110(a)(l) and 110(a)(2) of the Act provide that each

implementation plan submitted by a State must be adopted after reasonable notice and public hearing.

The State of Washington held a public hearing on January 5, 1993 in Vancouver, and January 6, 1993 in SeaTac to solicit public comment on the implementation plan for the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Areas, respectively. Following the public hearing, the plan was signed by the Director of the Washington State Department of Ecology (the Governor's designee) on January 22, 1993. EPA received an official revision to the SIP on January 28, 1993 which supersedes the SIP submittal of November 16, 1992. Additionally, replacement pages were submitted July 5, 1994 to clarify which sources are subject to the emission statement program.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness the criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). A letter dated April 8, 1993 was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process. In today's action, EPA approves Washington's emission statement program SIP submittal and invites public comment on the action.

B. Components of Emission Statement Program

1. Program Elements

Washington's emission statement program includes provisions covering applicability of the regulations, definitions for key terms used in the regulations, a compliance schedule for sources covered by the regulations, and the specific reporting requirements for sources. Under Washington State law, the Revised Code of Washington (RCW) sections 70.94.141 and 70.94.331 authorize Ecology and local authorities to "require access to records, books, files, and other information specific to the control, recovery, or release of air contaminants into the atmosphere." The Washington Administrative Code (WAC) 173–400–105 states that "the owner or operator of a source shall upon notification by the director of Ecology, maintain records ... deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures."

2. Reporting Requirements for Sources

In accordance with the Act, Washington's emission statement program requires sources to submit certification that the information is accurate to the best knowledge of the individual certifying the statement, source identification information, operating information, process rate data, control equipment information, and emissions information.

3. Reporting Requirements for State

Washington's emission statement program includes a provision for the State to provide the identifying information for the sources covered by the emission statement program, the value for rule effectiveness utilized by the State in its SIP calculations, the source data elements entered into AIRS, and quarterly emission statement status reports. The quarterly reports should show the total number of facilities that met the State's emission statements program requirements and the number of facilities that failed to meet the requirements. Washington has submitted quarterly emissions statement status reports since July 1, 1993. The emissions statement status reports contain all required data elements. Ecology and the local air pollution control authorities require emission statement data for the annual emission inventory update.

4. Sources Covered

Section 182(a)(3)(B) of the Act requires that States with areas designated as nonattainment for ozone (O_3) require emission statement data from sources of volatile organic compounds (VOC) or oxides of nitrogen (NOx) in the nonattainment areas. Washington's Emission Statement Program applies the source reporting requirements as outlined in EPA's "Draft Guidance on the Implementation of an Emission Statement Program." Sources subject to this requirement are: (1) Sources in O3 nonattainment areas that emit 25 (tpy) or more of NOx; and (2) sources in O3 nonattainment areas that emit 25 tpy or more of VOC. Additionally, if a source emits at least the minimum established reporting level of VOC or NOx (for example, 25 tpy or more in an O3 nonattainment area), and the other pollutant is emitted at less than 25 tpy, then the other pollutant should also be included in the emission statement.

5. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA. The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). SIP provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The State of Washington has a program in its SIP that will ensure that the requirements of sections 182(a)(3)(B), 182(f), and 184(b)(2) of the Act for emission statement measures contained in the SIP are adequately enforced. Submission of emission statement data is enforced through the Southwest Air Pollution Control Authority (SWAPCA) and the Puget Sound Air Pollution Control Agency (PSAPCA). PSAPCA requires submission by April 15 of each year, and SWAPCA requires submission by March 15 of each year. EPA expects that the state's existing air enforcement program will be adequate.

III. Final Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). In this action, EPA is granting approval of the emission statement plan revision submitted to EPA on January 28, 1993 because it meets all of the applicable requirements of the CAA.

IV. Administrative 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 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 section 110 and subchapter I, part D of the Clean Air 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 Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA 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).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective on November 14, 1994 unless, by October 12, 1994, adverse or critical comments are received.

Nothing is this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not bechallenged later in proceedings to enforce its requirements. (See 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 25, 1994.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(46) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(46) On January 28, 1993 the State of Washington submitted a SIP revision for the purpose of implementing an emission statement program for stationary sources within the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Area. The implementation plan was submitted by the State to satisfy the Federal requirements for an emission statement program as part of the SIP for Washington State.

(i) Incorporation by reference.

(A) Letters dated January 22, 1993 from the Director of the Washington Department of Ecology to EPA Region 10 amending the Washington SIP for both the Vancouver and Central Puget Sound areas.

(B) "Supplement to the SIP for Washington State, A Plan for Attaining and Maintaining National Ambient Air Quality Standards for Ozone in Central Puget Sound," sections 6.0, 6.1, and 6.2, adopted January 22, 1993.

(C) "Supplement to the SIP for Washington State, A Plan for Attaining and Maintaining National Ambient Air Quality Standards for Ozone in the Vancouver Air Quality Maintenance Area," sections 7.0, 7.1, 7.2, and 7.3, adopted January 22, 1993.

* * * * *

[FR Doc. 94–22400 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[TX–23–1–6390; FRL–5063–6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the State Implementation Plan (SIP) Addressing Carbon Monoxide (CO) for El Paso

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to the Texas SIP addressing CO for El Paso. Certain elements of the complete El Paso CO SIP were submitted by the Governor of Texas to the EPA in order to meet the November 15, 1992, deadline for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for CO. These elements satisfy certain Federal requirements for an approvable nonattainment area CO SIP for El Paso. This Federal Register (FR) action approves some of the elements of the complete El Paso CO SIP, including the 1990 base year CO emissions inventory and the oxygenated fuels program. The remaining elements of the complete El Paso CO SIP have been or will be acted upon in separate FR actions.

EFFECTIVE DATE: This final rule will become effective on October 12, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Air Quality Planning Annex, 12118 North IH–35, Park 35 Technology Center, Building A, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Cupp, Planning Section (6T–AP), Air Programs Branch, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–8015.

SUPPLEMENTARY INFORMATION:

Background

A segment of El Paso, Texas, was designated nonattainment for CO and classified as moderate with a design value below 12.7 parts per million (ppm.) (specifically 12.6), under sections 107(d)(4)(A) and 186(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments of 1990.[1] Please reference 56 FR 56694 (November 6, 1991), 57 FR 13498, and 13529 (April 16, 1992). The air quality planning requirements for moderate CO nonattainment areas with a design value less than or equal to 12.7 ppm. are set out in subparts one and three of part D, title I of the CAA.

The EPA has issued a "General Preamble" describing the EPA's preliminary views on how the EPA intends to review SIPs and SIP revisions submitted under title I of the CAA, including those State submittals containing moderate CO nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

Moderate CO nonattainment areas less than 12.7 ppm., such as El Paso, were required to submit SIPs to the EPA by November 15, 1992, containing specifically: (1) A comprehensive, accurate, and current inventory of actual emissions from all sources of CO in the nonattainment area (sections 172(c)(3) and 187(a)(1) of the CAA); (2) no later than September 30, 1995, and no later than the end of each three year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of sections 187(a)(1) and 187(a)(5) of the CAA; (3) a permit program to be submitted by November 15, 1993, which meets the requirements of section 173 for the construction and operation of new and modified major stationary sources of CO (section 172(c)(5)); (4) contingency measures due November 15, 1993, that are to be implemented if the EPA determines that the area has failed to attain the primary standards by the applicable date (section 172(c)(9)); (5) a commitment to upgrade the current I/M program and submit a SIP revision for the I/M program by November 15, 1993, (section 187(a)(4)); and (6) an oxygenated fuels program (section 211(m)).

[1] The 1990 Amendments to the CAA made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the CO NAAQS (see Public Law Number 101–549, 104 Stat. 2399). References herein are to the CAA, as amended, 42 U.S.C. 7401 *et seq.*

Section 110(k) of the CAA sets out provisions governing the EPA's review of SIP submittals (see 57 FR 13565–13566). The EPA announced its proposed approval of the El Paso CO emission inventory and the oxygenated fuels regulations on April 4, 1994 (58 FR 15683–15686) and requested public comments. No comments were received. In this FR action, the EPA is approving two of the elements of the complete El Paso CO SIP, specifically the 1990 base year CO emissions inventory, and the oxygenated fuels program. The remaining elements of the complete El Paso CO SIP will be acted upon in separate FR actions.

Response to Comments

As stated previously, the EPA proposed approval of the El Paso CO emission inventory and the oxygenated fuels regulations on April 4, 1994 (59 FR 15683–15686), and no comments were received regarding the proposed approval.

Final Action

Section 110(k) of the CAA sets out provisions governing the EPA's review of SIP submittals (see 57 FR 13565–13566). The EPA in this action is approving the following elements of the complete El Paso CO SIP: the 1990 base year CO emissions inventory and the oxygenated fuels program. These two elements meet all of the applicable requirements of the CAA. The remaining elements of the complete El Paso CO SIP that were submitted to the EPA by November 15, 1992, or by November 15, 1993, will be or have been acted upon in separate FR actions.

On October 23, 1992, the Governor of Texas submitted to the EPA a SIP narrative revision for CO concerning El Paso, which included the general SIP revision and the oxygenated fuels regulations. The State also submitted to the EPA a completed emissions inventory on November 17, 1992, and a commitment to upgrade the existing I/M program on November 15, 1992.

The EPA announced its proposed approval of the El Paso CO emission inventory and the oxygenated fuels regulations on April 4, 1994 (59 FR 15683–15686) and requested public comments. No comments were received. In that rulemaking action, the EPA described in detail its interpretation of title I and its rationale for proposing to approve these elements of the El Paso CO SIP after taking into consideration the specific factual issues presented. It is important to note that the El Paso CO 1990 base year inventory consists of the following list of the CO peak season daily emissions estimates in tons per day (t/d): Point Sources, nine t/d; Area Sources, three t/d; Mobile On-Road Sources, 291 t/d; Mobile Nonroad Sources, 67 t/d; Total Sources, 370 t/d.

This final action on the El Paso CO SIP is unchanged from the April 4, 1994, proposed approval action. The EPA prepared a detailed analysis in its Technical Support Document as a part of its proposed approval and which is available for review along with the current FR document at the locations referenced in the beginning of this FR document. The discussion herein provides only a broad overview of the proposed action that the EPA is now finalizing. The public is referred to the April 4, 1994, proposed approval FR action for a full discussion of the action that the EPA is now finalizing.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economical, and environmental factors, and in relation to relevant statutory and regulatory requirements.

This action makes final the action proposed at 59 FR 15683 (April 4, 1994). As noted elsewhere in this action, the EPA received no public comments on the proposed action. As a direct result, the Regional Administrator has reclassified this action from table two to table three under the processing procedures established at 54 FR 2214, January 19, 1989, and revised via memorandum from the Assistant Administrator for Air and Radiation to the Regional Administrators dated October 4, 1993.

The EPA has reviewed these revisions to the El Paso CO SIP and is approving the El Paso CO emission inventory and the oxygenated fuels regulations in this action. Other elements described above will be or have been addressed in separate FR documents.

Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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 CAA 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Executive Order 12866

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 10, 1994.

W.B. Hathaway,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(84) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(84) A revision to the Texas SIP for the El Paso moderate carbon monoxide nonattainment area which has a design value less than 12.7 parts per million was submitted by the Governor of Texas to meet the November 15, 1992, CAA deadline. The elements in this incorporation include the general SIP revision and the oxygenated fuels regulations submitted to the EPA on October 23, 1992, and the completed emissions inventory submitted to the EPA on November 17, 1992.

(i) Incorporation by reference.

(A) Addition of a new Section 114.13, "Oxygenated Fuels" to the Texas Air Control Board (TACB), Regulation IV.

(B) TACB Board Order Number 92–15, as adopted by the TACB on September 18, 1992.

(C) SIP narrative plan entitled "Revisions to the State Implementation Plan (SIP) for Carbon Monoxide (CO), 1992 CO SIP for Moderate Area—El Paso," adopted by the Texas Air Control Board September 18, 1992, addressing: 3. 1992 CO SIP Revisions for Moderate Area El Paso (new.) e. Attainment Demonstration, pages 9–10; f. Oxygenated Fuels 3) Administrative Requirements, page 13, b) Clerical Reviews, page 15, c) Field Inspections, page 15; and e) enforcement (i)–(iv), pages 17–19.

(ii) Additional material.

(A) SIP narrative plan entitled "Revisions to the State Implementation Plan (SIP) for Carbon Monoxide (CO), 1992 CO SIP for Moderate Area—El Paso," adopted by the Texas Air Control Board September 18, 1992.

(B) Governor of Texas submittal of November 13, 1992, regarding the El Paso CO emissions inventory.

(C) The TACB certification letter dated October 1, 1992, and signed by William R. Campbell, Executive Director, TACB.

* * * * *

[FR Doc. 94–22398 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 185

[OPP–2600053C; FRL–4909–8]

RIN 2070–AB78

Benomyl and Trifluralin; Reinstatement of Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Reinstatement of Food Additive Regulations.

SUMMARY: In the **Federal Register** of June 30, 1994, EPA issued a final judicially reviewable rule revoking the food additive regulations for benomyl (processed tomato products and raisins) and trifluralin (peppermint and spearmint oil). The Circuit Court of Appeals for the D.C. Circuit ordered EPA on August 24, 1994, to stay the effectiveness of those revocations. By this document, EPA is implementing the Court's order by reinstating the food additive regulations for benomyl and trifluralin pending judicial review of EPA's June 1994 Order by that Court.

EFFECTIVE DATE: The effective date of these regulations is on September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Niloufar Nazmi or Lisa Engstrom, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Station #1, 2800 Crystal Drive, Arlington, VA. Telephone: (703) 308-8010.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 1994 (59 FR 33684) ("June 1994 Order"), EPA issued a final judicially reviewable rule revoking the food additive regulations for benomyl (processed tomato products and raisins), trifluralin (peppermint and spearmint oil), mancozeb (bran of wheat), and phosmet (cottonseed oil). On July 14, 1994, the registrants for benomyl and trifluralin filed a petition for review of EPA's June 1994 Order with the Circuit Court of Appeals for the D.C. Circuit. In addition, DuPont and DowElanco filed with the Court a "Motion for Summary Reversal, or in the Alternative, Stay Pending Review." On August 24, 1994, the Court denied Petitioners' Motion for a Summary Reversal, but granted the Motion for a Stay Pending Judicial Review.

By this document, EPA is implementing the Court's Order granting a stay by reinstating the benomyl (processed tomato products and raisins) and trifluralin (peppermint and spearmint oil) food additive regulations pending judicial review of

EPA's decision. These regulations, therefore, will remain in place until the stay is terminated, EPA is otherwise ordered by the D.C. Circuit Court of Appeals or another court, or EPA takes further administrative action.

EPA is not reinstating the food additive regulations for mancozeb (bran of wheat) and phosmet (cottonseed oil) because they were not the subject of the Court's August 24, 1994 decision. Therefore, those regulations continue to be revoked.

Until otherwise acted upon by EPA, the Code of Federal Regulations text will continue to include the full text of the food additive regulations for benomyl and trifluralin (40 CFR 185.350 and 185.5900).

List of Subjects in 40 CFR Part 185

Environmental protection, Administrative practice and procedure, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 1, 1994.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

PART 185—[AMENDED]

1. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

2. By adding § 185.350, to read as follows:

§ 185.350 Benomyl.

Tolerances of 50 parts per million are established for combined residues of the fungicide benomyl (methyl-1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in raisins and concentrated tomato products when present therein as a result of application of the fungicide to growing grapes and tomatoes.

3. By adding § 185.5900, to read as follows:

§ 185.5900 Trifluralin

Tolerances are established for residues of the herbicide trifluralin in or on peppermint oil and spearmint oil at 2 parts per million when present therein as a result of application to the herbicide to the growing crops.

[FR Doc. 94–22440 Filed 9–7–94; 12:20 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 93–22; FCC 94–200]

Interstate Pay-Per-Call Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted this Order on Reconsideration to rule on petitions for reconsideration of a Report and Order which amended the Commission's pay-per-call regulations to implement the Telephone Disclosure and Dispute Resolution Act (TDDRA). The Commission affirmed these rules with minor modifications, consistent with the TDDRA. The rules are intended to maximize telephone subscribers' protection against fraudulent and abusive practices without unduly burdening common carriers and providers of legitimate pay-per-call services.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order on Reconsideration in CC Docket No. 93–22 [FCC 94–200], adopted August 2, 1994 and released August 31, 1994. The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street NW., Washington, D.C. The full text of this Order on Reconsideration may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street NW., Suite 140, Washington, D.C. 20037, (202) 857–3800. For a document relating to this Order on Reconsideration, see a proposed rule involving interstate information services published elsewhere in this issue.

Summary of Order on Reconsideration

1. On August 2, 1994, the Commission adopted an Order on Reconsideration in CC Docket No 93–22 (released August 31, 1994; FCC 94–200) (Order) ruling on petitions for reconsideration of a Report and Order, 58 FR 44769 (Aug. 25, 1993), which amended the Commission's pay-per-call regulations to implement the Telephone Disclosure and Dispute Resolution Act of 1992, 47 CFR 228 (TDDRA). As explained below, the Commission affirmed, with minor modifications, regulations governing interstate pay-per-call and similar information services.

2. The Commission modified § 64.1506 to clarify that services specifically exempted from the TDDRA's definition of "pay-per-call" need not be offered exclusively through 900 numbers. The Commission stated that it had not intended to negate the express exclusions from pay-per-call status enacted by Congress in the TDDRA, and, accordingly, amended § 64.1506 to require that any interstate services possessing the basic pay-per-call attributes set forth in the statute and § 64.1501(a)(1)–(2), and not subject to the exclusions stated in that section, must be offered only through telephone numbers beginning with the 900 service access code.

3. The Commission affirmed § 64.1508(c) which requires local exchange carriers (LECs) to file federal tariffs for services that offer subscribers the option of blocking access to 900 numbers and also declined to permit LECs to satisfy the federal tariffing requirement by cross-referencing applicable state tariffs. The Commission found that it could implement the TDDRA's mandate that blocking services be reasonably priced most effectively by requiring the filing of federal tariffs. Federal tariffs assure that the Commission need not review individual state tariffs or await subscriber complaints to ensure that 900 number blocking is offered to subscribers at a reasonable charge.

4. Finally, the Commission affirmed, with minor modifications, § 64.1510(b) of its rules. This section requires common carriers billing subscribers for information services provided on either a collect basis or under a presubscription or comparable arrangement to separate the charges for those services from charges for ordinary telephones services, to the extent possible, and include in each bill assessing such charges a brief statement of subscriber rights and responsibilities. Although the Commission recognized that these provisions are not required by the TDDRA, it concluded that they are necessary to protect consumers from fraudulent and deceptive practices associated with the provision of interstate information services.

5. The Commission noted that subscriber complaints filed with the Common Carrier Bureau over the past several months confirm and highlight the need for separate billing and consumer notification requirements, particularly when 800 numbers are used to provide information services, purportedly under a presubscription or

comparable arrangement. The Commission's rules require that a valid presubscription arrangement be established as a contractual agreement between a caller and an information provider (IP) after the caller is fully informed of the rates and conditions for using the information service and agrees to take the service on the terms offered. The IP must require use of a personal identification number (PIN) to guard against access by unauthorized persons. However, the complaints received by the Commission indicate that information providers apparently read the Automatic Number Identification (ANI) of the originating telephone line and issue a PIN to the caller without ascertaining that that individual is both the subscriber to the originating line and legally capable of entering into a contractual agreement. The subscriber to the originating line is then charged for a call to the IP on the basis of ANI and, unless the bill segregates such charges, the subscriber to the originating line may not be aware that charges for information services have been billed. The Commission emphasized that this practice does not establish a valid presubscription arrangement and that unless an IP has ascertained that the subscriber to the originating line is, in fact, the caller who agreed to purchase information services, the IP may not use ANI in order to bill charges to the originating line. The Commission also noted that LECs have often used confusing or misleading language in displaying charges for 800 number information services and, accordingly, directed carriers to render bills that accurately reflect the charges assessed.

6. The Commission also ruled that, while IPs generally appear to have abandoned collect calls as a means of providing information services, LECs should include in their billing contracts a requirement that entities on whose behalf collect calls are billed take reasonable steps to segregate any collect calls for information services.

7. The Commission amended § 64.1510(b) to remove the requirement that carriers inform subscribers billed for collect or presubscribed information services that 900 number blocking is available upon request since that fact could confuse subscribers because 900 number blocking would not block collect calls or most presubscribed services, which are typically offered through 800 numbers. The Commission also modified slightly the terminology used in the rule to reflect more clearly the type of calls it was designed to cover. Thus, the amended rule deletes the term "interstate tariffed collect information services" and instead refers to "interstate information services provided on a collect basis." To ensure consistency, Sections 64.1507(c) and 64.1511(a) were also amended to incorporate this changed terminology.

Ordering Clauses

8. Accordingly, It Is Ordered, pursuant to sections 1, 4(i), 4(j), 201–205, 228, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 228 and 405, that the petitions for reconsideration filed in this proceeding Are Denied, except as provided in this Order.

9. It Is Further Ordered, that part 64 of the Commission's rules, 47 CFR part 64 Is Amended as set forth below, effective 30 days from publication of the text thereof in the **Federal Register**.

List of Subjects in 47 CFR Part 64

Communications common carrier, Computer technology, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply sections 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Section 64.1501 is revised to read as follows:

§ 64.1501 Definitions.

(a) *Pay-per-call service* means any service:

(1) In which any person provides or purports to provide:

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to simultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

(2) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(3) Which is accessed through use of a 900 number;

(4) Provided, however, such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

(b) *Presubscription or comparable arrangement* means a contractual agreement in which:

(1) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(2) The service provider agrees to notify the consumer of any future rate changes;

(3) The consumer agrees to use the service on the terms and conditions disclosed by the service provider;

(4) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers; and

(5) Provided, however, that disclosure of a credit or charge card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if the credit or charge card is subject to the dispute resolution procedures of the Truth in Lending Act and Fair Credit Billing Act, as amended, 15 U.S.C. 1601 *et seq.* No other action taken by a consumer during the course of a call to an information service, for which charges are assessed, can create a presubscription or comparable arrangement.

3. Section 64.1506 is revised to read as follows:

§ 64.1506 Number designation.

Any interstate service described in § 64.1501(a)(1)–(2), and not subject to the exclusions contained in § 64.1501(a)(4), shall be offered only through telephone numbers beginning with a 900 service access code.

4. In Section 64.1507, Paragraph (c) is revised to read as follows:

§ 64.1507 Prohibition on disconnection or interruption of service for failure to remit pay-per-call or similar service charges.

* * * * *

(c) Charges for interstate information services provided on a collect basis which have been disputed by the subscriber.

5. In Section 64.1510, Paragraph (b) is revised to read as follows:

§ 64.1510 Billing and collection of pay-per-call and similar charges.

* * * * *

(b) Any common carrier offering billing and collection services to an entity providing interstate information services pursuant to a presubscription or comparable arrangement, or on a collect basis, shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i) (A), (B), (D) and (a)(2)(ii) of this section.

6. In Section 64.1511, the first sentence of paragraph (a) is revised to read as follows:

§ 64.1511 Forgiveness of charges and refunds.

(a) Any carrier assigning a telephone number to a provider of interstate pay-per-call services or providing transmission for interstate information services provided pursuant to a presubscription or comparable arrangement or on a collect basis, and providing billing and collection for such services, shall establish procedures for the handling of subscriber complaints regarding charges for those services.

* * *

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[FR Doc. 94–22565 Filed 9–9–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 931100–4043; I.D. 090694A]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by trawl vessels using non-pelagic trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the BSAI bycatch allowance of halibut specified for the trawl pollock/Atka mackerel/"other species" fishery category.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), September 6, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1994 bycatch allowance of halibut specified for the trawl pollock/Atka mackerel/"other species" fishery category which is defined at § 675.21(b)(1)(iii)(F), was established as 957 metric tons by the final 1994 initial specifications (59 FR 7656, February 16, 1994).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the bycatch allowance of halibut specified for the trawl pollock/Atka mackerel/"other species" fishery category has been reached. Therefore, NMFS is prohibiting directed fishing for pollock by trawl vessels using non-pelagic trawl gear in the BSAI from 12 noon, A.l.t., September 6, 1994, until 12 midnight, A.l.t., December 31, 1994.

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

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

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

Dated: September 6, 1994.

David S. Crestin,

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

[FR Doc. 94–22376 Filed 9–6–94; 4:05 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 175
Monday, September 12, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket Number FV93–353]

Extend Coverage To Include Fresh and Frozen Fruits and Vegetables That Are Oil-Blanched, Including Frozen French Fried Potato Products; Reopening of Comment Period on Proposed Rule Perishable Agricultural Commodities Act (PACA)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Reopening of Comment Period.

SUMMARY: This document reopens the period for filing written comments on a proposed rule published on July 12, 1994, that would extend PACA coverage to include fresh and frozen fruits and vegetables that are oil-blanched, including frozen french fried potato products.

DATES: Comments must be received by October 12, 1994.

ADDRESSES: Interested persons are invited to submit written comments concerning this reopened action. Comments should be addressed to USDA, AMS, F&V Division, PACA Branch, Room 2095–S. Building, P.O. Box 96456, 14th & Independence Avenue, S.W., Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: J.R. Frazier, Assistant Chief, PACA Branch, Room 2095–So., Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 720–4180, FAX (202) 690–4413.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the July 12, 1994 issue of the **Federal Register** (59 FR 35487). The proposed rule would amend the definition of fresh fruit and vegetables set forth in 7 CFR 46.2(u) of the Regulations issued pursuant to the Perishable Agricultural Commodities Act (7 U.S.C. 499o). This document extends PACA coverage to include frozen fruits and vegetables that are oil-blanched, especially frozen french fried potato products. Under previous regulations, suppliers of these commodities suffered considerable financial losses because oil-blanched products were excluded from the PACA. Reopening the comment period grants dealers in frozen oil-blanched products the same rights afforded dealers whose frozen product is water blanched.

On August 10, 1994, the Agency received a request from the Food Marketing Institute, International Foodservice Distributors Association, National-American Wholesale Grocers Association, National Council of Chain Restaurants, National Grocers Association, and the National Restaurant Association requesting a 90-day extension of the comment period. The request stated they needed additional time to develop their comments.

The Department has determined that a 30-day extension of the comment period will provide adequate time for interested persons to respond to this proposed rule. Accordingly, the comment period is reopened to October 12, 1994.

Dated: September 6, 1994.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 94–22405 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–95; Special Conditions No. 25–ANM–88]

Special Conditions: Learjet Inc., Model 45 Airplane, Lightning and High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Learjet Inc. (Lear) Model 45 airplane. This new airplane utilizes new avionics/electronic systems that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, (206) 227–2145.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 1992, Learjet Inc. (Lear), 8220 West Harry Street, Wichita, KS 67209–2942, P.O. Box 7707, Wichita, KS 67277–7707, applied for a new type certificate in the transport airplane category for the Model 45 airplane. The Learjet Model 45 is a T-tail, low wing, medium sized business jet powered by two Garrett TFE 731–20 turbofan engines mounted on pylons extending from the aft fuselage. Each engine is capable of delivering 3,500 lbs. thrust (3,650 lbs. thrust with auto performance reserve). The airplane is capable of operating with two flight crewmembers and a maximum of ten passengers (standard is eight passengers).

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Learjet must show, except as provided in § 25.2, that the Model 45 meets the applicable provisions of part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–75. In addition, the proposed certification basis for the Model 45 includes part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendments 36–1 through the amendment in effect at the time of certification. These special conditions form an additional part of the type certification basis. In addition, the certification basis may include other special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not

contain adequate or appropriate safety standards for the Learjet Model 45 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model 45 incorporates new avionic/electronic installations, including primary flight displays, an electronically controlled braking system, digital electronic engine controls, an engine indication and crew alerting system (EICAS), multifunction display, and a digital autopilot/flight director system. These systems may be vulnerable to lightning and high-intensity radiated fields (HIRF) external to the airplane.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with new technology avionic and electronic systems. There are two regulations that specifically pertain to lightning protection: one for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protecton of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it could significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Lear Model 45, which require that new technology electrical and electronic systems be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with these special conditions, clarification of the threat definition of lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition, with the exception of the multiple burst environment, which has been changed to agree with the latest recommendation from the Society of Automotive Engineers (SAE) AE4L lightning committee.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in AC 20–53A, will provide a consistent and reasonable standard that is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. The effect of these threats on the airplane and its systems depends upon several factors, including installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike-Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level.

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10ms, and (2) the maximum time between subsequent strokes is 200ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. *Multiple Burst:* (Component H). In-flight data gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses that represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Stroke" (½ Component D), and the "Multiple Burst" consists of repetitive Component H waveforms in 3 sets of 20 pulses each. The minimum time between individual Component H pulses within a burst is 50 microseconds, the maximum is 1,000 microseconds. The 3 bursts are distributed according to the following constraints: (1) the minimum period

between bursts in 30ms, and (2) the maximum period between bursts is 300ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t)=I_o(e^{-at}-e^{-bt})$

where:

t=time in seconds,

i=current in amperes, and

	Severe strike (component A)	Restrike (component D)	Multiple stroke (½component D)	Multiple burst (component H)
I_o, amp	= 218,810	109,405	54,703	10,572
a, sec^{-1}	= 11,354	22,708	22,708	187,191
b, sec^{-1}	= 647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:				
i_{peak}	= 200 KA	100 KA	50 KA	10 KA
and,				
$(di/dt)max^{(amp/sec)}$	= 1.4×10^{11}	1.4×10^{11}	0.7×10^{11}	2.0×10^{11}
	= @t=0+sec	@t=0+sec	@t=0+sec	@t=0+sec
di/dt, (amp/sec)	= 1.0×10^{11}	1.0×10^{11}	0.5×10^{11}	
	= @t=.5μs	@t=.25μs	@t=.25μs	
Action Integral (amp^2 sec)	= 2.0×10^{6}	0.25×10^{6}	0.0625×10^{6}	

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	900
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

As discussed above, these special conditions are applicable to the Learjet Model 45. Should Learjet apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Discussion of Comments

Notice of proposed special conditions No. SC–94–2–NM for the Learjet Model 45 airplane was published in the **Federal Register** on May 3, 1994 (59 FR 22766). No comments were received, and the special conditions are adopted as proposed.

Conclusion

This action affects only certain design features on the Learjet Model 45 airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Learjet Model 45 series airplanes.

1. *Lightning Protection:*

(a) Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

(b) Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

3. For the purpose of these special conditions, the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure could contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on August 23, 1994.

Norman B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 94–22018 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 25

[Docket No. NM–93; Notice No. SC–94–1A–NM]

Special Conditions: Cessna Aircraft Company, Model 750 (Citation X) Airplane, Lightning and High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Cessna Aircraft Company (Cessna), Model 750 (Citation X) airplane. This new airplane will utilize new avionics/electronic systems that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before October 27, 1994.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–93, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–93. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, (206) 227–2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action is taken on these proposals. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–93." The postcard will be date stamped and returned to the commenter.

Background

On March 29, 1994, the FAA published in the **Federal Register** (59 FR 14571) proposed special conditions for the Cessna Model 750 (Citation X). These special conditions are proposed requirements to protect the airplane systems from the effects of lightning and high intensity radiated fields (HIRF). Cessna, commenting to the docket by letter, noted that there were differences in the preamble language from the language used in issue papers that discussed the proposed method of compliance with these special conditions. The FAA agrees. Although the special conditions proposed herein have not changed from the original notice, the methods of compliance discussed in the issue papers that preceded the original notice were in fact different in certain respects than the methods of compliance discussed in the original notice. The FAA inadvertently left out Cessna's proposed alternate methods of complying with the proposed special conditions. As the methods of compliance proposed by Cessna deviate in certain respects from previous methods of compliance with the proposed special conditions, the FAA agrees these methods should also be made available for the public record and comment as well.

On October 15, 1991, Cessna Aircraft Company (Cessna), 6030 Cessna Blvd., P.O. Box 7704, Wichita, KS 67277–7704, applied for a new type certificate in the transport airplane category for the Model 750 (Citation X) airplane. The Cessna Model 750 is a T-tail, low swept wing, medium-sized business jet powered by two GMA–3007C turbofan engines mounted on pylons extending from the aft fuselage. Each engine will be capable of delivering 6,000 pounds thrust. The flight controls will be powered and capable of manual reversion. The airplane has a seating capacity of up to twelve passengers, and a maximum takeoff weight of 31,000 pounds.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Cessna must show, except as provided in § 25.2, that the Model 750 (Citation X) meets the applicable provisions of part 25, effective February 1965, as amended by Amendments 25–1 through 25–74. In addition, the proposed certification basis for the Model 750 includes part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. No exemptions are anticipated. The special conditions that may be developed as a result of this notice will form an additional part of the type certification basis. In addition, the certification basis may include other special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Cessna Model 750 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the

FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Novel or Unusual Design Features

The Model 750 incorporates new avionic/electronic installations, including a digital Electronic Flight Instrument System (EFIS), Air Data System, Attitude and Heading Reference System (AHRS), Navigation and Communication System, Autopilot System, and a Full Authority Digital Engine Control (FADEC) system that controls critical engine parameters. These systems may be vulnerable to lightning and high-intensity radiated fields external to the airplane.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with new technology avionic and electronic systems. There are two regulations that specifically pertain to lightning protection: one for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it could significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Cessna Model 750, which would require that new technology electrical and electronic systems, such as the EFIS, FADEC, AHRS, etc., be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with these proposed special conditions, clarification of the threat definition of lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition, with the exception of the multiple burst environment, which has been changed to agree with the latest recommendation from the Society of Automotive Engineers (SAE) AE4L lightning committee.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in AC 20–53A, will provide a consistent and reasonable standard that is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. The effect of these threats on the airplane and its systems depends upon several factors, including installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike-Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level.

2. *Multiple Stroke Flash:* (1/2 Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of 1/2 magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10ms, and (2) the maximum time between subsequent strokes is 200ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses that represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of repetitive Component H waveforms in 3 sets of 20 pulses each. The minimum time between individual Component H pulses within a burst is 50 microseconds, the maximum is 1,000 microseconds. The 3 bursts are distributed according to the following constraints: (1) the minimum period between bursts is 30ms, and (2) the maximum period between bursts is 300ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (1/2 Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t)=I_o (e^{-at}-e^{-bt})$.

where: t=time in seconds,

i=current in amperes, and

	Severe strike (component A)	Restrike (component D)	Multiple stroke (½component D)	Multiple burst (component H)
I_o, amp =	218,810	109,405	54,703	10,572
a, sec^{-1} =	11,354	22,708	22,708	187,191
b, sec^{-1} =	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:				
i_{peak} =	200 KA	100 KA	50 KA	10 KA
and,				
(di/dt) max (amp/sec) =	1.4 X 10^{11}	1.4 X 10^{11}	0.7 X 10^{11}	2.0 X 10^{11}
=	@t=0+sec	@t=0+sec	@t=0+sec	@t=0+sec
di/dt, (amp/sec) =	1.0 X 10^{11}	1.0 X 10^{11}	0.5 X 10^{11}	
=	@t=.5μs	@t=.25μs	@t=.25μs	
Action Integral (amp^2 sec) =	2.0 X 10^6	0.25 X 10^6	0.0625 X 10^6	

It is Cessna's position that only damage tolerance testing of equipment that performs essential functions should be required using the procedures and conditions specified in DO–160C, Section 22 (change 2). Pin injection or cable bundle testing would be required, but there should be no multi-strike or multi-burst requirement. Cessna proposes that to evaluate the induced effects of lightning to the systems under consideration, the following must be considered:

Essential Functions: First Return Stroke

Critical Functions: First Return Stroke; Multi-Stroke; Multi-Burst

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, the FAA has used criteria for compliance with the HIRF protection special condition shown in paragraphs 1 or 2 below:

1. A mininum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

Cessna's market for the Model 750 Citation X includes, at the present time, two European JAA member countries. Consequently, Cessna intends to pursue certification to meet the European JAA requirements as well as the FAA requirements. To reduce the testing required, Cessna proposes to test to an environment that combines a proposed FAA certification environment (from the SAE AE4R Subcommittee) and a proposed JAA certification environment (from EUROCAE WG–33) to form a "worst case" certification environment. This environment will consist of the following:

Where the combined proposed certification environment is less than 100 volts per meter, Cessna will test to the proposed certification environment (JAA or FAA, whichever is higher). Where the combined environment is greater than 100 volts per meter, Cessna will test to the proposed JAA environment (less aircraft attenuation above 200 MHz). The aircraft attenuation will be established by the results of full vehicle tests conducted by Cessna on Model 650, Citation III, and Citation VII aircraft. Cessna's proposed Model 750 HIRF certification environment is as follows:

PROPOSED CESSNA 750 (CITATION X [CX] HIRF CERTIFICATION ENVIRONMENT

Frequency (HZ)	Proposed FAA certification environment (peak/avg)	Proposed JAA certification environment (peak/avg)	Proposed CX threat environment (peak/avg)
10K–500K ..	50/50	40/40	50/50
500K–2M	40/40	40/40	40/40
2M–30M	100/100	100/100	100/100
30M–100M ..	20/20	20/20	20/20
100M–200M ..	50/30	50/30	50/30
200M–400M ..	70/70	70/70	70/70
400M–700M ..	1520/750	700/30	700/30
700M–1G	1300/170	1300/70	1300/70
1G–2G ...	2500/180	2500/160	2500/160
2G–4G ...	3500/360	3500/240	3500/240
4G–6G ...	6800/280	3200/280	3200/280
6G–8G ...	1800/330	800/330	800/330
8G–12G .	3500/215	3500/330	3500/330
12G–18G	1700/270	1700/180	1700/180

Conclusion

This action affects only certain design features on the Cessna Model 750 (Citation X) airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Cessna Model 750 (Citation X) series airplanes.

1. Lightning Protection

(a) Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

(b) Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF)

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

3. For the Purpose of These Special Conditions, the Following Definitions Apply

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure could contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on August 23, 1994.

Norman B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 94–22017 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 300

Rules and Regulations Under the Wool Products Labeling Act of 1939 Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Rule and Regulations under the Wool Products Labeling Act of 1939 (59 FR 23645, May 6, 1994). The Commission solicited the comments as part of its periodic review of rule and guides.

DATES: Written comments will be accepted until October 15, 1994.

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

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 235–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on May 6, 1994 published requests for public comments concerning three related sets of regulations: (1) Rules and Regulations under the Wool Products Labeling Act, (2) Rules and Regulations under the Fur Products Labeling Act, and (3) Rules and Regulations under the Textile Fiber Products Identification Act. The comments were to be accepted until June 6, 1994. The Commission subsequently extended the comment period until September 6, 1994.

The Commission has received a letter seeking extension of these comment periods from the American Textile Manufacturers Institute, a trade association representing large numbers of interested members subject to the marking requirements of the Textile, Wool, and Fur Acts. In addition to this formal request for extension, Commission staff has been contacted by other trade associations and interested entities who intend to comment or would like to comment and have stated that, because of the widespread coverage and complexity of these regulations, the comment periods should be extended.

To allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment on its Rules and Regulations under the Wool Products Labeling Act of 1939, until October 15, 1994.

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

List of Subjects in 16 CFR Part 300

Advertising, Labeling, Recordkeeping, Wool products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–22437 Filed 9–9–94; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 301

Rules and Regulations Under the Fur Products Labeling Act Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Rules and Regulations under the Fur Products Labeling Act (59 FR 23645, May 6, 1994). The Commission solicited the comments as part of its periodic review of rules and guides.

DATES: Written comments will be accepted until October 15, 1994.

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

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 235–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on May 6, 1994 published requests for public comments concerning three related sets of regulations: (1) Rules and Regulations under the Wool Products Labeling Act, (2) Rules and Regulations under the Fur Products Labeling Act, and (3) Rules and Regulations under the Textile Fiber Products Identification Act. The comments were to be accepted until June 6, 1994. The Commission

subsequently extended the comment period until September 6, 1994.

The Commission has received a letter seeking extension of these comment periods from the American Textile Manufacturers Institute, a trade association representing large numbers of interested members subject to the marking requirements of the Textile, Wool, and Fur Acts. In addition to this formal request for extension, Commission staff has been contacted by other trade associations and interested entities who intend to comment or would like to comment and have stated that, because of the widespread coverage and complexity of these regulations, the comment periods should be extended.

To allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment on its Rules and Regulations under the Fur Products Labeling Act until October 15, 1994.

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

List of Subjects in 16 CFR Part 301

Advertising, Invoicing, Labeling, Recordkeeping, Fur products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–22436 Filed 9–9–94; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Rules and Regulations under the Textile Fiber Products Identification Act (59 FR 23646, May 6, 1994). The Commission solicited the comments as part of its periodic review of rules and guides.

DATES: Written comments will be accepted until October 15, 1994.

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

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 235–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on May 6, 1994 published requests for public comments concerning three related sets of regulations: (1) Rules and Regulations under the Wool Products Labeling Act, (2) Rules and Regulations under the Fur Products Labeling Act, and (3) Rules and Regulations under the Textile Fiber Products Identification Act. The comments were to be accepted until June 6, 1994. The Commission subsequently extended the comment period until September 6, 1994.

The Commission has received a letter seeking extension of these comment periods from the American Textile Manufacturers Institute, a trade association representing large numbers of interested members subject to the marking requirements of the Textile, Wool, and Fur Acts. In addition to this formal request for extension, Commission staff has been contacted by other trade associations and interested entities who intend to comment or would like to comment and have stated that, because of the widespread coverage and complexity of these regulations, the comment periods should be extended.

To allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment on its Rules and Regulations under the Textile Fiber Products Identification Act until October 15, 1994.

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

List of Subjects in 16 CFR Part 303

Advertising, Labeling, Recordkeeping, Textile fiber products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–22435 Filed 9–9–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–6–90]

RIN 1545–AN87

Limitation on Use of Deconsolidation To Avoid Foreign Tax Credit; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document contains notice of a public hearing on proposed regulations relating to certain limitations on the amount of the foreign tax credit.

DATES: The public hearing will be held on Monday, October 17, 1994, beginning at 10:00 a.m. Requests to speak and outlines of oral comments must be received by Monday, October 3, 1994.

ADDRESSES: The public hearing will be held in room 3718, Internal Revenue Service Building, 1111 Constitution Avenue, NW, Washington, DC. Requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:T:R, [INTL–6–90], room 5228, Washington, DC 20044 or hand-delivered between the hours of 8:00 a.m. and 5:00 p.m. to: CC:DOM:CORP:T:R [INTL–6–90], Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–8452 or (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 904 of the Internal Revenue Code. The proposed regulations appeared in the **Federal Register** for Tuesday, May 17, 1994, at page 25584 (59 FR 25584).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, October 3, 1994, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

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

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

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

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 94–22425 Filed 9–9–94; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–5070–6]

Open Meeting of the Committee on Hazardous Waste Identification

AGENCY: Environmental Protection Agency.

ACTION: Meeting announcement.

SUMMARY: The Hazardous Waste Identification Committee will meet on September 26 and 27 to discuss work accomplished since the last meeting, and to identify appropriate next steps. The meeting is open to the public without need for advance registration.

DATES: The Committee will meet on September 26 and 27. On the 26th, the meeting will begin at 1:00 p.m. and run until 6:00 p.m. On the 27th, the meeting will begin at 9:00 a.m. and run until 12:00 noon.

ADDRESSES: The Committee will meet at the Quality Inn Capitol Hill, 415 New Jersey Ave. NW., Washington, DC 20001, (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: For further information on substantive matters, call Al Collins of EPA's Office of Solid Waste at (202) 260–4791. For further information on procedural matters, call Denise Madigan, the Committee Co-Facilitator, at (202) 429–8782.

Dated: September 7, 1994.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 94–22443 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[WA17–1–5867b and WA16–1–5866b; FRL–5065–4]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of implementing an emission statement program for stationary sources within the Vancouver Air Quality Maintenance Area and the Central Puget Sound Ozone Nonattainment Area. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for an emission statement program as part of the SIP for Washington State. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by October 12, 1994.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The State of Washington: Washington State Department of Ecology, P.O. Box 47600, PV–11, Olympia, WA 98504–7600.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, EPA, Region 10, Air Programs Development Section (AT–082), Seattle, WA 98101, (206)553–6917.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final actionwhich is located in the rules section of this **Federal Register**.

Dated: August 25, 1994.

Chuck Clarke,

Regional Administrator.

[FR Doc. 94–22401 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 60

[AD–FRL–5068–3]

RIN 2060–AE94

Standards of Performance for New Stationary Sources: Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Wastewater

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This action proposes standards of performance for wastewater sources in the Synthetic Organic Chemical Manufacturing Industry (SOCMI). These standards implement section 111 of the Clean Air Act (the ACT) and are based on the Administrator's determination that VOC emissions from SOCMI cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed SOCMI process units to control wastewater emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, environmental, and energy impacts, not just with end-of-pipe and add-on controls, but also by eliminating or reducing the formation of these pollutants. The proposed regulation would achieve an estimated reduction of 16,200 megagrams (Mg) of VOC in the fifth year following promulgation.

DATES: *Comments.* The EPA will accept comments on the proposed rule until November 14, 1994.

Public Hearing. If requested, the EPA will hold a public hearing concerning the proposed rule beginning at 10 a.m. on October 12, 1994. Persons interested in presenting oral testimony to the EPA

at a public hearing must contact the person listed below (see **FOR FURTHER INFORMATION CONTACT**) no later than September 27, 1994. Persons interested in attending the hearing should call the person listed below (see **FOR FURTHER INFORMATION CONTACT**) to verify that a hearing will be held.

ADDRESSES: *Comments.* Interested parties may submit written comments regarding the proposed rule (in duplicate, if possible) to Docket No. A–94–32 at the following address: U.S. Environmental Protection, Air Docket Section (6102), 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. The public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, North Carolina.

Docket. Docket No. A–94–32 contains supporting information used in developing the proposed standards. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to noon, and 1 to 3 p.m., Monday through Friday. The proposed regulatory text, Background Information Document, and other materials related to this document are available for review in the docket. Copies of this information may be obtained by request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Lucas, Office of Air Quality Planning and Standards, Chemicals and Petroleum Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone (919) 541–0884.

SUPPLEMENTARY INFORMATION: *Additional Detailed Information.* The proposed regulatory text and the Background Information Document are not included in this **Federal Register** document, but are available in Docket No. A–94–32 or by request from the Air Docket (see **ADDRESSES**). This notice, the proposed regulatory text, and the background information document are also available on the Technology Transfer Network (TTN), one of the EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a telephone call. Dial (919) 541–5742 for up to a 14,400 bauds per second modem. If more information on TTN is needed, call the HELP line at (919) 541–5384. A diskette containing the preamble, regulation, and background information document will be supplied by faxing the request to (919) 540–3470 with name, address, and phone number.

The following outline is provided to aid in reading the preamble for the proposed standards.

I. Introduction
- A. New Source Performance Standards—General
- B. NSPS Decision Scheme

II. Summary of the Proposed NSPS
- A. Source Category to be Regulated
- B. Pollutants to be Regulated
- C. Best Demonstrated Technology
- D. Affected Facility
- E. Emission Points to be Regulated
- F. Format for the Standards
- G. Proposed Standards
- H. Modification and Reconstruction
- I. Compliance Testing
- J. Monitoring Requirements
- K. Reporting and Recordkeeping

III. Impacts of the Proposed NSPS
- A. Environmental Impacts
- B. Cost Impacts
- C. Economic Impacts

IV. Rationale for Proposed Standards
- A. Selection of Source Category
- B. Selection of Emission Sources
- C. Pollutants To Be Regulated
- D. Selection of Affected Facility
- E. Selection of Best Demonstrated Technology
- F. Selection of Format of Proposed Standard
- G. Selection of Standards
- H. Modification and Reconstruction Considerations
- I. Monitoring Requirements
- J. Performance Test Methods
- K. Reporting and Recordkeeping Requirements
- L. Solicitation of Comments

V. Administrative Requirements
- A. Public Hearing
- B. Administrative Designation and Regulatory Analysis
- C. Compliance With Regulatory Flexibility Act
- D. Paperwork Reduction Act

I. Introduction

A. New Source Performance Standards—General

New source performance standards (NSPS) implement section 111 of the Act. The NSPS are issued for categories of sources that cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. They apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for them is proposed.

An NSPS requires these sources to control emissions to the level achievable by "best demonstrated technology," or "BDT."

B. NSPS Decision Scheme

An NSPS is the product of a series of decisions made during development of the regulation. Elements in this "decision scheme" include the following:

1. Source category to be regulated: usually an entire industry, but can be a process or group of processes within an industry.

2. Pollutant(s) to be regulated: the particular substance(s) emitted by the source that the standard will control.

3. Best demonstrated technology: the technology on which the Agency will base the standards, as defined in section 111(a)(1) of the Act.

4. Affected facility: the pieces or groups of equipment that comprise the sources to which the standards will apply.

5. Emission points to be regulated: within the affected facility, the specific physical location emitting pollutants (e.g., vents, equipment leaks, and wastewater streams).

6. Format for the standards: the form in which the standards are expressed, i.e., as a percent reduction in emissions, as pollutant concentration, or as equipment standards.

7. Standards: based on what BDT can achieve, the maximum permissible emissions, or design, equipment, work practice, or operational requirements if emission limits are infeasible.

8. Other considerations: in addition, NSPS usually include modification/reconstruction considerations, monitoring requirements, performance test methods, and reporting and recordkeeping requirements.

II. Summary of the Proposed NSPS

A. Source Category To Be Regulated

Volatile organic compound emissions from SOCMI wastewater (also referred to as "secondary sources") are being regulated under section 111 of the Act. The proposed standards would regulate VOC emissions from wastewater generated by SOCMI process units and are limited to emission points in the associated process unit's wastewater collection and treatment systems. Specific emission points are discussed in section II.E.

Wastewater is water that comes in contact with process fluids during manufacturing, processing, or maintenance operations within a process unit at a SOCMI facility. Most wastewaters contain relatively low concentrations of contaminants (e.g., less than 2 percent or 20,000 parts per million (ppm)) and are managed in wastewater collection and treatment systems. Wastewater collection and

treatment systems typically include individual drain systems, oil- water separators, air flotation units, equalization tanks, and biological treatments units. Volatile organic compounds are emitted from the wastewater during collection and treatment.

Regulations targeting emissions from SOCMI wastewater have been developed previously. National emission standards for hazardous air pollutants (NESHAP) for benzene waste operations (40 CFR part 61, subpart FF) regulate benzene emissions from SOCMI waste streams that contain benzene at concentrations of 10 parts per million by weight (ppmw) or more at facilities that handle at least 10 Mg/yr of benzene in certain wastes. A second regulation, the hazardous organic NESHAP ("the HON") in subpart G of 40 CFR part 63, is broader in scope, regulating emissions of many organic hazardous air pollutants (HAP) from SOCMI wastewater. The HON imposes standards on SOCMI process wastewater streams from process units that produce any of a selected group of products at facilities that are major sources under the Act. The rule covers individual waste streams that contain one or more of the HAP identified in section 112(b) of the Act at concentrations above specified levels. Generally, a SOCMI source subject to the benzene waste NESHAP would also be subject to the HON.

A third regulation that may affect the chemical industry is the Resource Conservation and Recovery Act (RCRA) air emission standards for hazardous waste treatment, storage, and disposal facilities. That rule will establish standards for controlling emissions from wastes that are identified as hazardous under RCRA at facilities subject to subtitle C permitting requirements. Under that rule, hazardous wastes would have to be managed in controlled units until the waste is treated to remove or destroy certain hazardous components. The rule only applies to units and facilities that are permitted under RCRA subtitle C. However, under RCRA, wastewater treatment units are not subject to subtitle C hazardous waste management standards provided the unit is part of a wastewater treatment facility that is subject to regulation under either section 402 or 307(b) of the Clean Water Act. Thus, hazardous waste tank systems that are used to store or treat wastewater that is managed at an on-site wastewater treatment facility with a National Pollution Discharge Elimination System permit or that discharges to a publicly-owned treatment works would generally be exempt from the RCRA regulations.

In addition to the HON, the benzene waste NESHAP, and the RCRA air standards, section 182(b)(2) of the Act requires that State implementation plans (SIP's) for certain ozone nonattainment areas be revised to require the implementation of reasonably available control technology (RACT) for control of VOC emissions. The EPA has defined RACT generally as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. In some cases, the EPA has, or will, issue guidance relative to RACT in the form of a control techniques guidelines (CTG) document. A draft of the Industrial Wastewater (IWW) CTG was released for public comment on December 29, 1993. The SOCMI is a subset of the industry group which is covered by the IWW CTG. The CTG is intended to provide State and local air pollution authorities with an information base for proceeding with their own analysis of RACT to meet statutory requirements. Due to time and budget constraints, the IWW CTG has not been finalized. An alternative control technology (ACT) document has been prepared and provided to the States as interim guidance to aid in development of rules in the absence of the final IWW CTG.

In spite of the guidance and the three separate rules to regulate emissions from wastewater streams at SOCMI facilities, there are substantial gaps in the extent to which these rules control emissions from SOCMI wastewater streams with the potential to emit VOC. The HON applies to only a segment of the industry that produces a specified set of products, which does not include all SOCMI installations. In addition, the HON only regulates streams that contain HAP at concentrations above a trigger level. Consequently, the HON does not regulate wastewater streams that emit VOC that are not HAP. The benzene waste NESHAP applies to all SOCMI installations but is very limited in scope regarding the waste streams regulated, i.e., only those streams that contain benzene are subject to the rule. Many of the wastewater streams at SOCMI plants do not contain benzene but do contain other VOC that are emitted to the atmosphere if left uncontrolled. The RCRA air standards for hazardous waste toxic storage and disposal facilities are not expected to impact a significant number of wastewater streams at SOCMI plants because of the wastewater exemption under RCRA that was discussed above.

The EPA analysis of SOCMI wastewater data submitted by industry shows a significant number of wastewater streams generated by SOCMI process units will not be regulated by the HON or other wastewater related rules. This is in large part a result of the fact that the source category coverage for the SOCMI Wastewater NSPS is considerably broader than that of the HON. For example, the chemical list defining the affected SOCMI process units is nearly twice as large for the NSPS as for the HON. For many of the SOCMI industries, VOC-containing wastewater streams do not contain HAP and therefore controlling only HAP-containing streams, as is required under the HON, would not substantially reduce VOC emissions. It is estimated that 68 percent of all new SOCMI chemical production process units will have wastewater streams that would require control under the proposed NSPS but will not require control under the HON.

This NSPS for SOCMI wastewater sources is needed to fill the gaps in the coverage of VOC emissions from wastewater streams left uncovered by other regulations. In addition, the benzene waste NESHAP and the RCRA air standards are risk-based standards. Risk-based standards are designed to reduce emissions to a level that will protect human health and the environment with an ample margin of safety. The goal of an NSPS, on the other hand, is to improve ambient air quality over time by application of best demonstrated technology (BDT) on all new, modified, or reconstructed sources. The goal of the CTG is to provide guidance to States in revising their SIP's and to help bring their nonattainment areas into compliance with the National Ambient Air Quality Standards. The SIP rules do not apply at facilities that are in ozone attainment areas. Furthermore, NSPS require installation of BDT rather than RACT, which in some cases may achieve a higher level of emission reduction. The NSPS would impose consistent, nationwide regulatory requirements, which would ensure that waste streams and wastewater streams at all new, modified, and reconstructed SOCMI process units are controlled in a consistent manner using the best emission controls.

In summary, although a portion of waste streams and wastewater streams at SOCMI sites are already controlled as a result of existing and planned regulations, none of these regulations cover all SOCMI waste streams with the

potential to emit VOC. These other regulations are limited in scope and leave some wastewater streams uncontrolled for air emissions. These uncontrolled wastewater streams are the subject of the NSPS for SOCMI wastewater sources.

It is possible that there may be some overlap among those regulations affecting wastes and wastewater at SOCMI facilities, leading to possibly duplicative requirements. In order to avoid the burden of such duplication, the EPA is proposing in the SOCMI NSPS that the owner or operator of waste management units, treatment processes, or control devices affected by the proposed rule may comply with the control requirements of the proposed rule by demonstrating compliance with the benzene waste operations NESHAP, the HON, or the RCRA air emission standards for hazardous waste treatment, storage, and disposal facilities. The owner or operator would also be required to maintain records documenting which regulation is being used to demonstrate compliance with the proposed NSPS. An owner or operator who chooses to demonstrate compliance in this manner would be exempted from the inspection, monitoring, reporting, and recordkeeping requirements of the proposed rule that relate to the affected waste management unit, treatment process, or control device. The Agency is soliciting comments on the proposed approach to reducing the regulatory burden for these sources. In addition, the Agency is interested in receiving information on the level of burden that would be imposed by the possible duplication of requirements.

B. Pollutants To Be Regulated

The air pollutant to be regulated by these standards is VOC. The primary air pollutant from SOCMI wastewater facilities is VOC, which is a precursor to the formation of ozone and oxygenated organic aerosols.

C. Best Demonstrated Technology

Section 111 of the Act states that NSPS "shall reflect the degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." The technology basis for NSPS that meets these criteria is referred to as "best demonstrated technology (BDT)." In the standards development process for NSPS, BDT should be identified, the performance of BDT established, and a regulatory alternative selected that will require the use of BDT or an equivalent technology.

Volatile organic compound emissions from wastewater can be effectively reduced with the following control approach: (1) Identify wastewater streams with significant VOC emission potential; (2) recycle or treat those wastewater streams to remove their potential for emissions; (3) prior to treatment or recycling, manage those waste streams in units equipped with air emission controls; (4) recycle any treatment residuals or treat any residuals to destroy the VOC; and (5) control air emissions generated by treatment processes.

The treatment technology that is the basis for the proposed standards for wastewater is steam stripping, a proven treatment technology for wastewaters generated within the targeted industry. It is generally applicable to wastewater streams with the potential to emit VOC and, in general, achieves the highest VOC emission reduction among demonstrated VOC control technologies. Facilities can comply by installing the design steam stripper or by installing a stripper or other treatment device that achieves an equivalent VOC emission reduction. Control of air emissions from the stripper and from treatment residuals is also required. Although standards for wastewater are based on the performance of steam stripping, other treatment technologies such as biodegradation have also been demonstrated to be effective. To be considered equivalent to steam stripping, a properly operated biological treatment unit must achieve a 95-percent VOC reduction or meet the required mass removal while controlling air emissions. Biodegradation may also be used as one of a series of treatment processes (e.g., a steam stripper followed by a biological treatment unit) where the combination achieves a reduction of 99 percent or more in volatile organic concentration. Alternative treatment technologies other than biodegradation are permitted if their performance equals or exceeds that of steam stripping, i.e., a 99-percent VOC reduction.

D. Affected Facility

For the SOCMI wastewater NSPS, the affected facility will be each new process unit (and the wastewater streams it generates) at a SOCMI plant. A SOCMI process unit will be defined as one producing one or more of the chemicals listed in the regulation. A process unit at a SOCMI plant will be considered to be new if construction, modification, or reconstruction of the unit commences after the date the NSPS is proposed in the **Federal Register**.

E. Emission Points to be Regulated

The air emission points selected for the proposed regulations include all significant points in SOCMI process unit wastewater collection and treatment systems that manage process or maintenance wastewater streams or residuals generated from SOCMI process units that produce any of the listed chemicals. The air emission release points in the process unit wastewater collection and treatment system include individual drain systems, which are comprised of equipment such as open trenches, drains, manholes, junction boxes, lift stations, and weirs; surface impoundments; wastewater storage and treatment tanks; oil-water separators; containers; clarifiers; and biological treatment units. At these release points, VOC can be transferred from the process unit wastewater stream to the air.

F. Format for the Standards

As authorized under section 111 of the Act, the proposed standards consist of a combination of emission standards and equipment, design, and work practice standards. Emission standards are used whenever feasible; however, such standards are not feasible in all circumstances. In some cases, alternative emission standards are also proposed. Separate standards for tanks, surface impoundments, containers, individual drain systems, oil-water separators, treatment processes, and control devices are proposed.

G. Proposed Standards

Under the proposed standards, SOCMI process unit wastewater streams with a volatile organic concentration (measured using Reference Method 25D, 40 CFR part 60, appendix A) greater than or equal to 500 ppmw and flow rates greater than or equal to 1.0 liter per minute (Lpm) are required to be controlled. In addition, any wastewater stream with a volatile organic concentration greater than 10,000 ppmw would be controlled under the regulation, regardless of flow rate. Process units that generate wastewater with a total annual volatile organic mass of less than 1 Mg are exempt from the wastewater control requirements of the proposed rule.

The proposed wastewater treatment standard involves the application of a controlled collection and treatment system to individual wastewater streams that fail the cut off criteria. The

treatment requirements are designed to reduce the VOC content in the wastewater prior to placement in units without air emission controls. The proposal includes a variety of compliance options in order to meet the treatment process standard. These include a recycling option involving recycling of the wastewater to a process unit, an equipment design and operation standard, a numerical emission standard formatted as an effluent concentration limit, and a numerical emission standard format in terms a mass removal requirement.

Prior to treatment, the wastewater must be managed in units equipped with air emission controls, and wastewater collection and treatment systems must be designed and operated without leaks, as defined in the standards. Following is a summary of the specific standards for each of the individual types of SOCMI wastewater units.

1. Standards for Tanks

Under the proposed standards, owners and operators would be required, with two exceptions, to place wastewater streams in one of the following types of tanks depending on the tank capacity and vapor pressure of the stored material: (1) A tank equipped with a cover (e.g., a fixed roof) and a closed vent system and control device that meets certain design, inspection, and measurement specifications specified in the rules; (2) a tank equipped with a fixed roof and internal floating roof that meets the design requirements specified under the existing volatile organic liquid (VOL) storage NSPS (40 CFR part 60, subpart Kb); (3) a tank equipped with an external floating roof that meets the design, inspection, and measurement requirements specified under the existing VOL storage NSPS; or (4) a pressure tank that is designed and operated with no pressure releases during normal operations including waste loading and unloading.

The proposed rules would provide two exceptions to the tank control requirements described above. First, when an affected stream (i.e., one in which the wastewater has a mass-weighted average volatile organic concentration equal to or greater than 500 ppmw) is managed in certain size tanks and possesses certain vapor pressure characteristics, an owner or operator would be allowed to place the waste in a tank equipped with a fixed roof. Second, when the waste is placed in a biological treatment tank that meets the biological organic degradation performance requirements (i.e., 95-percent destruction efficiency), no additional air emission controls would be required.

Each cover opening not vented to a control device would be required to be maintained in a closed, sealed position except at those times when a specific opening is used to add, remove, inspect, or sample the waste in the tank or to inspect, maintain, repair, or replace equipment located underneath the cover. Safety devices that vent directly to the atmosphere could be used on the cover or closedvent system with control device provided that the safety device is not used for planned or routine venting of organic vapors and the safety device remains in a closed, sealed position at all times except when an unplanned event requires the opening of the device.

2. Standards for Surface Impoundments

The owner or operator of an affected surface impoundment is required to install and use emission control equipment. The proposed rules would require owners or operators to place waste in a surface impoundment equipped with a cover (e.g., air-supported structure) and a closed- vent system with control device or, when applicable, a surface impoundment equipped with a floating membrane cover as the air emission control. If the surface impoundment is used for biological treatment that meets the same organic biodegradation performance requirements described above for tanks, no additional air emission controls would be required to be used on the surface impoundment. The proposed operating and venting requirements for surface impoundment air emission control equipment are consistent with the rule requirements for tanks.

3. Standards for Containers

The proposed standards would not apply to a container that has a design capacity less than or equal to 0.1 cubic meter (m^3) (26.4 gallons (gal)). The owner or operator of an affected container would be required to place the waste material either into a container equipped with a cover that operates with no detectable organic emissions when all openings are secured in a closed, sealed position or to meet the alternative requirements discussed below.

Alternative requirements under the proposed standards for a drum with a design capacity less than or equal to 0.42 m^3 (110 gal) would allow an owner or operator to place the waste in a drum meeting the Department of Transportation (DOT) specifications and testing requirements under 49 CFR part 178. For a drum meeting these DOT regulations, neither Method 21 of 40 CFR part 60, appendix A, leak monitoring, nor recordkeeping of cover design documentation is required under the proposed standards.

Another alternative for containers under the proposed standards would require the owner or operator of any container that attaches to or forms a part of any truck, trailer, or rail car to show that the container has been tested for organic vapor tightness within the preceding 12 months in accordance with the requirements of Method 27 of 40 CFR part 60, appendix A. Method 27 is a pressure test procedure originally developed by the EPA for determining the vapor-leak tightness of a tank truck into which gasoline is placed. The EPA also considers the use of Method 27 to be appropriate for determining vapor-leak tightness of trucks, trailers, and rail cars into which wastes containing volatile organics are placed. Neither Method 21, leak monitoring, nor recordkeeping of cover design documentation is required for trucks, trailers, or rail cars complying with this provision of the rules.

If a waste is loaded into a container by pumping, the proposed standards would require submerged fill of waste only into those containers with a capacity equal to or greater than 0.42 m^3 (110 gal). Accordingly, drums with design capacities up to and including 0.42 m^3 (110 gal) are not required to be loaded by submerged fill.

When it is necessary for a container to be open during certain treatment processes, the proposed standards would require the container to be located in an enclosure connected to a closed-vent system with control device. The enclosure would be required to be designed to operate with sufficient airflow into the structure to capture all organic vapors vented from the container and route the vapors through the closed-vent system to the control device. The enclosure could have permanent or temporary openings to allow worker access, passage of containers through the enclosure by conveyor or other mechanical means, or entry of permanent mechanical or electrical equipment, or to direct airflow into the enclosure.

4. Standards for Individual Drain Systems

The proposed rule would require individual drain systems to meet one of two standards. In the first case, the owner or operator would comply by operating and maintaining on each opening in the individual drain system a cover and closed-vent system. The covers and all openings and the closed-

vent system would meet the leak detection requirements, unless the system is operated and maintained under negative pressure. The cover and all openings would be maintained in a closed, sealed position at all times when affected wastewater or residual is in the system except when it is necessary to use the opening for sampling or removal, or for equipment inspection, maintenance, or repair. Each individual drain system would be subject to initial and semi-annual inspections for improper work practices and control equipment failures.

Alternatively, individual drain system components would be required to comply with equipment standards. Each drain would be equipped with water seal controls or a tightly sealed cap or plug to eliminate air flow through the system. Each junction box would be equipped with a cover and emission controls. Each sewer line would be covered or enclosed in a manner so as to have no visible gaps or crack in joints, seals, or other emission interfaces. This equipment would be subject to regular inspection requirements.

5. Standards for Oil-Water Separators

The proposed standards would require owners or operators to operate and maintain either a fixed roof and closed-vent system that routes the VOC vapors from the oil-water separator to a control device or a floating roof. The fixed roof and all openings and the closed-vent system would be maintained in accordance with the leak detection requirements of the proposed rule, unless the system is operated and maintained under negative pressure. As with standards for other waste management units, each opening would be maintained in a closed, sealed position except when it is necessary to use the opening for sampling or removal, or for equipment inspection, maintenance, or repair.

Except in cases where it is impossible to operate a floating roof, such as over the weir mechanisms, the owner or operator would have the option of using a floating roof that meets the requirements of subpart QQQ of 40 CFR part 60. The owner or operator would measure primary and secondary seal gaps on a periodic basis as well as inspect the oil-water separator for improper work practices and control equipment failures.

6. Standards for Treatment Processes

The owner or operator would be required to treat each affected wastewater or residual stream by one of the following methods:

(1) Recycle or return to a production process such that the wastewater stream or residual is not exposed to the atmosphere and ensure that intervening waste management units meet the applicable requirements of the standards;

(2) Treat using a waste management unit that either is a design steam stripper, reduces by 99 percent or more the total volatile organic mass flow rate, reduces the average volatile organic concentration to less than 50 ppmw and reduces the total volatile organic mass by 95 percent, or achieves a required volatile organic mass removal rate for combined or mixed streams; or

(3) Treat wastewater streams generated by an affected process unit with a biological treatment unit that achieves 95 percent total volatile organic mass removal.

If the treatment process or waste management unit is a properly operated biological treatment unit that meets the mass removal (i.e., biodegradation) requirements, the biological treatment unit need not be covered and vented to a control device. However, the owner or operator of any other treatment process or waste management unit subject to the applicable standards (for example, if the treatment process is a steam stripper, air stripper, or thin-film evaporation unit) would be required to cover and vent the unit through a closed-vent system to a control device and meet the leak detection requirements, unless the cover and vent are operated and maintained under negative pressure. In addition, any openings must be kept closed at all times that an affected wastewater stream or treatment residual is in the process or unit, except during inspection and maintenance and unless the unit is a properly operated biological treatment unit as defined by the standards.

Each treatment process or waste management unit used to comply with the treatment processes standards would be required to provide a design analysis and supporting documentation of the operating characteristics of the treatment process or waste management unit that is based on operation at a representative wastewater stream flow rate and volatile organic concentration under which it would be most difficult to demonstrate compliance (i.e., when air emissions are expected to be highest). Alternatively, the owner or operator may conduct performance tests using the test methods and procedures specified in the proposed rules to demonstrate compliance. In addition, all openings are subject to periodic inspection and repair schedules and monitoring requirements.

The proposed rule provides several exceptions to the standards for treatment processes. The owner or operator is considered to be in compliance with the treatment requirements and is exempt from the demonstration that the treatment process achieves the required conditions if the treatment process is one of the following: (1) A hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 70 and 40 CFR part 264, subpart O, or (2) an industrial furnace or boiler burning hazardous waste for which the owner or operator has been issued a final permit under 40 CFR part 270 and 40 CFR part 266, subpart H or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H. In addition, if the affected wastewater stream or residual is discharged to an underground injection well for which the owner or operator has been issued a final permit under 40 CFR part 270 and 40 CFR part 122, the owner is considered in compliance with the treatment provisions.

7. Standards for Control Devices

The proposed standards would require that each control device achieve at least a 95-percent reduction in the total organic content of the vapor stream vented to the device or, in the case of an enclosed combustion device, a reduction of the total organic content of the vapor stream to a level less than or equal to 20 ppmw on a dry basis, corrected to 3 percent oxygen, or provide a minimum residence time and temperature as specified in the proposed standards. Flares would be required to comply with the requirements in 40 CFR part 60, subpart A. With certain exceptions (e.g., some boilers and process heaters and flares), compliance would either be demonstrated through a design analysis that addresses vent stream characteristics and control device operating parameters or performance tests would be conducted using the methods and procedures specified in the proposed rules. In addition, each control device is subject to the enhanced monitoring and continued compliance requirements of section 114(a) of the CAAA, as well as to periodic inspection and specified repair periods.

The standards would not require the use of any specific type of equipment or add-on control device. An owner or operator would be allowed the flexibility of choosing the control device that can achieve the performance requirements and is best suited for a

control application based on the types and characteristics of the particular organic vapor stream. Furthermore, the standards would not require that each affected waste management unit be vented to a separate control device dedicated to that particular unit. Vent streams from several units can be combined and discharged to a single control device that achieves the required level of performance.

H. Modification and Reconstruction

Provisions of the proposed standards would apply to existing facilities that are modified or reconstructed after the date of proposal. It is possible that at some facilities, feedstock, catalyst, or reactant substitutions; process equipment changes; or combinations of these two classes of changes above could trigger the part 60 General Provisions related to modification or reconstruction of facilities. Changes of this nature are likely to require both equipment and process changes as well as significant capital expenditures. See section IV.H for a more detailed discussion of these considerations.

I. Compliance Testing

Test methods and procedures would be required to ensure compliance with the standards proposed for SOCMI wastewater sources. The proposed standards include requirements for demonstrating that an emission point or wastewater stream is being controlled in compliance with control requirements or would not be required to be controlled. Also included are provisions for an initial test for no detectable emissions (i.e., leaks as defined in the standards) from tanks, containers, surface impoundments, closed-vent systems, and process wastewater collection and treatment systems.

Test methods are provided for use by the owner or operator in determining applicability of the standards to a given wastewater stream. The three variables of concern, annual wastewater quantity, average total volatile organic concentration, and annual average wastewater flow rate, may be determined using a variety of methods. For example, the proposed standards include provisions that would allow a SOCMI process unit owner or operator to use either direct measurement or knowledge of the wastewater to determine the volatile organic concentration of the wastewater. Direct measurements would be conducted in accordance with the requirements of Method 25D in appendix A of 40 CFR part 60. Knowledge of the wastewater can be demonstrated by material balances, records of chemical purchases, process stoichiometry, or previous test results.

A determination of the volatile organic concentration or average annual flow rate of a wastewater would be required by the proposed standards only when a wastewater subject to the standards is placed in a waste management unit that is not equipped with air emission controls in accordance with the rules. The SOCMI process unit owner or operator would not be required to determine the volatile organic concentration or average annual flow rate of wastewater streams that are managed only in units equipped with air emission controls in accordance with the requirements of the proposed standard up to the point of ultimate recycle, disposal, or discharge.

J. Monitoring Requirements

To ensure that emission control equipment is properly operated and maintained, the proposed standards would require the owner or operator to inspect and monitor certain air emission control equipment used to comply with the rules. Enhanced monitoring of control device operation is required under the proposed standards to demonstrate compliance with the standards. This involves the use of automated instrumentation to measure critical operating parameters that indicate whether the control device is operating correctly or is malfunctioning. Failure to maintain the established values of the monitored parameters would be an enforceable violation of the emission limits of the standard.

In addition to the enhanced monitoring requirements, an initial leak detection test using Method 21 under appendix A of 40 CFR part 60 is required for certain cover components to ensure gaskets and seals are in good condition and for closed-vent systems to ensure all fittings remain leak-tight. The Method 21 test would be supplemented by annual visual inspections for leaking components as well as periodic inspection and measurement of other monitoring parameters.

Special inspection and monitoring provisions are included in the proposed standards for cover fittings that monitor. Leak monitoring using Method 21 is not required for the following: (1) Drums that meet applicable DOT regulations specified in the rules; (2) trucks, trailers, and rail cars that are annually demonstrated to be vapor tight by Method 27 in appendix A of 40 CFR part 60; and (3) closed-vent systems operated under vacuum conditions.

K. Reporting and Recordkeeping

The proposed standards require the owner or operator to record certain information in the on-site facility operating logs or files. The information to be collected and recorded includes: the results of all waste determinations such as volatile organic concentration at the point of waste generation and organic vapor pressure; design specifications for closed-vent systems and control devices and control equipment; emission control equipment inspection and monitoring results; Method 21 and Method 27 test results; control device monitoring results; leak repairs; identification of incinerators, boilers, or industrial furnaces in which wastewater is treated in accordance with the general requirements of the rule; documentation for biological wastewater treatment units complying with the rule; and identification of equipment designated as unsafe or difficult to monitor or inspect. This information is to be readily available for review by authorized representatives of the EPA. The EPA seeks comment on the accessibility of the monitoring data and periodic reports that may be kept in logs on the plant site when it is not required to be reported to the appropriate agency. These data and reports should be accessible to citizen groups that contemplate citizen suits or other members of the public interested in the source's compliance status. This access is required by section 114(c) of the Clean Air Act as Amended (CAAA). Means of providing that accessibility include: direct inspection of the logs or files on-site with authority to access the data equal to that of the EPA, submission of a Freedom of Information Act (FOIA) request to the EPA with an affirmative duty on the part of the EPA or the state/local delegated agent to obtain any data from the source that the agency does not have in its files, submission of a FOIA-like request to the source owner/operator with an obligation on the part of the owner/operator to provide the requested data, or a requirement to keep electronic files/logs which would be accessible through EPA electronic bulletin boards. Other suggestions for meeting the mandates of section 114 are welcome.

The General Provisions of 40 CFR part 60 require the owner or operator to submit certain notifications and reports to the Administrator. Section 60.7(a)(1) of the General Provisions requires a notification of the date construction or reconstruction of an affected facility is commenced; the proposed rule requires that certain general information regarding the wastewater generated by

the source be submitted with this notification. Section 60.7(a)(3) of the General Provisions requires a notification of the actual date of initial startup of an affected facility; the proposed rule requires that the owner or operator provide with this notification more detailed information and data on the wastewater streams generated by the affected process unit. This information includes a determination of whether the stream is an affected wastewater stream, the compliance approach utilized if the stream is being controlled in accordance with the requirements of § 60.109(b) of the proposed rule, the identification of the waste management units receiving or managing each affected wastewater stream, and certain information on the treatment processes and control devices used to comply with the rule.

Section 60.7(c) of the General Provisions requires that each owner or operator required to install a continuous monitoring system (CMS) or monitoring device submit an excess emissions and monitoring systems performance report and/or a summary report to the Administrator on a quarterly basis when the CMS data are to be used directly for compliance determination, as is the case for control devices in this proposed rule. In order to be consistent with the reporting requirements of the HON, which also regulates this industry, the EPA is exempting the owner or operator from the quarterly reporting requirement and is requiring only a semiannual report in the proposed rule. The semiannual report will contain information on the excursions or exceedances as determined by the CMS data, performance test results, and other information on treatment processes and control devices.

III. Impacts of the Proposed NSPS

To estimate the impacts of the proposed regulation, the EPA estimates the quantity of VOC that the affected industry would emit to the atmosphere in the absence of the rule. This estimated quantity serves as a baseline from which the impacts of the rule are measured. Following estimation of the baseline level of emissions, the Agency estimates the emission reduction that would occur as a result of the regulatory alternatives for the rule. Studies are then made to estimate the impacts of the rule on the environment, the economics of the industry and the nation, and on energy consumption. Collectively, these estimates represent the impacts of the standard. Estimated impacts include emission reductions, costs, impacts on non-air environmental media, and energy usage. The impacts presented here are those estimated to occur in the fifth year after promulgation.

All of the impacts are calculated as an increment relative to the impacts of the wastewater rules included in the HON. Additional details of the impacts analysis can be found in the BID and from documentation developed in support of the HON.

A. Environmental Impacts

Under the proposed NSPS, it is estimated that 68 percent of all new SOCMI chemical production process units would have wastewater streams that require control under the NSPS but do not require control under the HON. It is further estimated that the total annual emission reduction achieved by the NSPS in the fifth year would be approximately 16,200 megagrams per year (Mg/yr) of VOC. Because the NSPS requires the treatment of wastewater prior to discharge, there would be no negative impacts on water quality. In fact, the impacts of the rule on water quality could be positive. Impacts of the rule on solid waste are estimated to be negligible.

Other environmental impacts of the rule are estimated to be small. Due to the increased energy requirements of control, emissions of carbon monoxide are estimated to increase by about 4 Mg/yr and emissions of nitrogen oxides are estimated to increase by about 35 Mg/yr. Energy impacts of the proposed rule include the combustion of fossil fuels to generate steam for steam stripping systems. These impacts are partially offset by the recovery of organics from the treatment system. Estimated energy impacts of the proposed rule in the fifth year consist of an increase of 0.6 million kilowatt hours per year (Kw-hr/yr) of electricity usage, an increase in natural gas consumption of 133 million British thermal units per year (Btu/yr), and an increase in steam usage of 133 billion Btu/yr.

B. Cost Impacts

The fifth-year cost impacts of the proposed standard are considered to be reasonable. Total annualized cost of the rule in the fifth year, on a nationwide basis, is estimated at $8.8 million. This results in a cost effectiveness of about $540 per Mg of emission reduction. The fifth-year national capital cost is estimated at approximately $5.8 million. The estimated cost impacts assume that most of the regulated SOCMI plants with affected process units have an existing steam stripping system with sufficient excess capacity to treat the wastewater streams regulated under the NSPS or will be able to modify steam stripping systems that are currently being designed and constructed for compliance with other regulations (e.g., the HON) to add sufficient capacity to treat the wastewater streams covered by the proposed NSPS that do not require control under these other regulations. The estimate also assumes that a small number (about 12 percent) do not have an existing steam stripper and will have to install a new system. These assumptions reflect the Agency's best estimate of the way the industry will comply with the rule.

C. Economic Impacts

The proposed rule is not expected to pose significant adverse economic impacts. The impact estimates are also produced assuming the costs of control are passed on to the consumer, as is the case in competitive markets in the long run. The EPA estimates, on average, a maximum price increase of less than 1 percent for SOCMI chemicals. This assumes the entire mix of chemicals produced by an affected SOCMI facility are proportionately affected by the NSPS, and assumes that the chemicals produced at those SOCMI facilities in the EPA database are reasonably representative of the mix of chemicals in the industry. The market price impacts of specific chemicals may be greater than the average presented above. This may be especially true for affected chemicals produced in low volumes and affected chemicals that have lower-than-average market prices. Chemicals with lower-than-average prices could experience higher-than-average control costs per unit of revenue. Due to economies of scale in pollution control, affected chemicals that are produced in low volumes are likely to have a higher-than-average cost of control per unit of production. The feature of the proposed rule that exempts low volume wastewater streams from selected process units may mitigate the price impact of low production volume chemicals that produce low volume waste streams. Finally, there will be no adverse effects on industry employment or expansion because the proposed standards will not appreciably affect the demand for chemicals covered by these standards.

IV. Rationale for Proposed Standards

A. Selection of Source Category

Under section 111(b)(1)(A) of the Act, the Administrator is required to publish, and periodically update, a list of source categories that in his or her judgement cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. This list appears in 40 CFR

60.16 and ranks, in order of priority for standards development, various source categories in terms of quantities of nationwide pollutant emission, the mobility and competitive nature of each source category, and the extent to which each pollutant endangers public health and welfare. The priority list reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, and it is intended to identify major source categories for which standards of performance are to be promulgated.

The priority list ranks the SOCMI source category first out of 59 listed source categories. For regulatory purposes, the SOCMI category was divided into the following segments: SOCMI unit processes; volatile organic liquid (VOL) storage vessels and handling equipment; SOCMI fugitive sources; and SOCMI wastewater sources. Standards have been developed for the other three groups of SOCMI sources; the NSPS proposes standards for the fourth and final category of SOCMI sources.

This division of the source category on the basis of similar types of emission sources and applicable emission control techniques was chosen over a more traditional approach for NSPS that involves the development of standards applicable to each specific chemical process. The selected approach is more resource efficient than the chemical process approach because a large number of specific chemical processes can be covered by one regulation. In addition, SOCMI plants contain similar wastewater emission sources. Similarities in the behavior of wastewater emission sources in SOCMI allow the same control techniques to be applied to all of the processes. Therefore, because the control techniques can be applied to the entire industry group and because regulating the entire group would be more resource efficient, a single regulation is being proposed for controlling wastewater emissions from the SOCMI source category.

The SOCMI is a large and diverse industry producing several thousand intermediate and end-product chemicals from a small number of basic chemicals. Most of the chemicals produced by this industry fall under standard industrial classification code 286.

In the proposed rule, a SOCMI process unit is defined as one producing or using one or more of the chemicals listed in the regulation. The list of chemicals proposed is an inclusive list that was derived from several sources that also formed the basis for the initial list of chemicals used to characterize SOCMI process units in the HON (see appendix A of the HON BID, EPA–453/D–92–016). The following sources are the basis for the composite list of chemicals for the proposed NSPS: (1) "Industrial Organic Chemical Use Trees," EPA/ORD, October 1992; (2) Standards of Performance for Equipment Leaks of VOC in SOCMI, 40 CFR part 60, subpart VV; (3) Proposed Standards of Performance for SOCMI Reactor Processes, 55 FR 26953, June 29, 1990; (4) Standards of Performance for SOCMI Distillation Operations, 40 CFR part 60, subpart NNN; and (5) Standards of Performance for SOCMI Air Oxidation Processes, 40 CFR part 60, subpart III. Therefore, the proposed list is a compilation of all the chemicals in these databases used to characterize the SOCMI process units.

B. Selection of Emission Sources

There are several emission sources associated with SOCMI processes (e.g., process vents, product storage and transfer operations, and equipment leaks); however, this NSPS is directed toward the control of VOC emissions from wastewater generated by SOCMI process units. This includes emissions from wastewater collection and treatment operations. Wastewater streams that contain organic compounds are generated at SOCMI process units by one of two mechanisms, either direct contact of water with organic compounds or by contamination of indirect contact water through equipment leaks in chemical processing.

Water may come in direct contact with organic compounds during a variety of different chemical processing steps, thus generating wastewater streams (referred to as "process wastewater") that must be discharged for treatment or disposal. Direct contact wastewater includes water used to wash impurities from organic compound products or reactants, water used to cool or quench organic compound vapor streams, condensed steam from jet educator systems pulling vacuum on vessels containing organic compounds, water from raw material and product storage tanks, water used as a carrier for catalysts and neutralizing agents (e.g., caustic solutions), and water formed as a byproduct during chemical reactions. Direct contact wastewater is also generated within SOCMI process units when water is used in equipment washes and spill cleanups; this wastewater (referred to as "maintenance wastewater") is typically more variable in flow rate and concentration than process wastewater streams and may be collected in ways that differ from process wastewater.

Indirect contact wastewater streams are generated by unintentional contact with organic compounds through leaks in process equipment. For example, indirect contact wastewater may be generated as a result of leaks from heat exchangers, condensers, or pumps. These wastewaters also may be collected and treated differently from direct contact wastewaters.

In both the SOCMI NSPS and the HON, "wastewater" is defined to encompass both process wastewaters and maintenance wastewaters. Examples of process wastewater streams include, but are not limited to, wastewater streams exiting process unit equipment (e.g., decanter water, such as condensed steam used in the process), product tank drawdown, feed tank drawdown, filter-press filtrate, and residuals recovered from waste management units. Examples of maintenance wastewater streams, which encompass all maintenance-related wastewater streams, are those generated by descaling of heat exchanger tubing bundles, cleaning of distillation traps, and draining of pumps into an individual drain system. However, the regulatory approach taken in the SOCMI NSPS is different from the one taken in the final HON. The proposed SOCMI wastewater NSPS requires that controls be applied to reduce air emissions from both process and maintenance wastewater streams from SOCMI process units that produce any of the listed chemicals. In the HON, maintenance wastewater is regulated by subpart F, and process wastewater is regulated by subpart G. Subpart F, § 63.105, requires the source owner or operator to develop a startup, shutdown, and malfunction plan which includes a description of procedures for managing wastewaters generated during maintenance. In the final HON, the facility's plan must include a description of procedures that will ensure that all maintenance wastewater is properly managed and HAP emissions are controlled. No such plan is required in the proposed NSPS.

The EPA selected the regulatory approach for maintenance wastewater as proposed in the NSPS because it was determined through review of the industry, which included plant visits to newly constructed SOCMI process units, that the technologies available for the collection and treatment of these wastewaters have been adequately demonstrated at SOCMI plants. The EPA is soliciting comments on the proposed approach to regulating SOCMI

process unit maintenance wastewaters. The EPA is interested in receiving information on why new SOCMI process units could not be designed and operated to control air emissions from maintenance wastewaters in the same manner as process wastewaters and information on the impact the small-quantity cutoff for process units and the low-flow exemption for wastewater streams will have on the collection and treatment of SOCMI maintenance wastewaters in relation to air emission control.

Wastewater streams at SOCMI plants are collected and treated in a variety of ways. Generally, wastewater passes through a series of collection and treatment units before being recycled to the facility or discharged from the facility. Collection and treatment schemes for wastewater are facility specific. The flow rate and organic compound composition of wastewater streams at a particular plant are functions of the processes used, which in turn influence the sizes and types of collection and treatment units. Many of the collection and treatment system units are either directly or indirectly open to the atmosphere; this atmospheric interface creates a potential for VOC emissions. The magnitude of VOC emissions from SOCMI process unit wastewaters is dependent on factors such as the physical properties of the pollutants, the temperature of the wastewater, and the design of the individual collection and treatment unit managing the wastewater. Climatic factors such as ambient temperature and wind speed also affect VOC emissions at many wastewater collection and treatment units. Potential sources of VOC emissions associated with wastewater collection and treatment systems include individual drain systems, manholes, junction boxes, lift stations, trenches, sumps, weirs, oil-water separators, equalization or neutralization basins, clarifiers, aeration basins, storage and treatment tanks, surface impoundments, and containers. A discussion of each of these emission sources is contained in Chapter 3 of the BID.

C. Pollutants to be Regulated

New source performance standards are developed under the authority of section 111 of the Act. Section 111 of the Act requires the regulation of new and modified sources of criteria pollutants (identified under section 110 of the Act) and certain other designated pollutants.

Volatile organic compounds are regulated due to their contribution to the formation of ozone in the lower atmosphere. Ozone is a listed criteria pollutant. Exposure to ozone has been linked to both health and welfare impacts. Health and welfare risks from these include impaired respiratory function, eye irritation, deterioration of materials such as rubber, and necrosis of plant tissue.

The potential for VOC emissions from wastewater can be assessed based on the characteristics of the wastewater at its point of generation. Based on information and data gathered on the concentration of organics in SOCMI wastewater streams and on the flow rate of these streams, the VOC emissions from SOCMI wastewater streams are considered to cause or contribute significantly to air pollution.

D. Selection of Affected Facility

The choice of the affected facility for an NSPS is based on the Agency's interpretation of section 111 of the Act. Under section 111, the NSPS must apply to "new sources"; "source" is defined as any building, structure, facility, or installation which emits or may emit "any air pollutant." Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which might be viewed as "sources." The EPA uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In choosing the affected facility, the EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industrial context involved and in light of the terms and purpose of section 111. One major consideration in this examination is that the use of a broader definition means that replacement equipment is less likely to be regulated under the NSPS; if, for example, an entire plant were designated as the affected facility, no part of the plant would be covered by the standard unless the plant as a whole were "modified." Because the purpose of section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is appropriate. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that the relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader definition. Another factor considered in the selection of an affected facility for the NSPS is the definition used in existing environmental rules. The application of these factors is discussed below.

The SOCMI is normally represented as a system of production stages that produce a wide range of organic chemicals from a set of 11 basic chemicals. The basic set of 11 chemicals is generated by refineries, natural gas plants, and coal tar distillation plants. Organic chemicals are produced at a wide range of facilities, from large facilities manufacturing a few chemicals in large volumes, to smaller facilities manufacturing many different finished chemicals in smaller volumes. Each of the production stages or "process units" may include any of several VOC emission sources, one of which is collection and treatment of wastewater

Three alternatives were considered for defining the affected facility in the NSPS. One option considered was to use a variation of the definition of source used in the HON, which is "* * * the set of emission points in the organic HAP-emitting processes used to produce synthetic organic chemicals that are in a contiguous area under common control." Under this option of broadly defining the source for the NSPS, the affected facility would include all process units and associated process unit wastewater streams located at a plant with SOCMI process units. A second option considered was the narrow definition used in the NSPS for refinery wastewater (40 CFR part 60, subpart QQQ), which was "(1) individual drain systems, (2) oil-water separators, and (3) aggregate facilities, which are defined as all process drains connected to the first common downstream junction box down to the receiving oil-water separator." The third and final option considered was "each individual SOCMI process unit" where each SOCMI process unit is defined as the equipment assembled and connected by pipes or ducts that use or produce, as intermediates or final products, one or more of the chemicals listed in the NSPS applicability section. (A process unit can be operated independently if supplied with sufficient feed or raw materials and sufficient product storage facilities.)

The broader first option has been used previously by the EPA in an existing NESHAP (i.e., the HON) as the source definition for existing SOCMI facilities. (Note: Under the HON's new source provisions, new SOCMI process units are subject to the rule requirements

under a more narrow source definition when specified conditions are met.) In that regulation, the definition was purposely chosen to be broad to include all emission points at any given site under the regulation. As stated earlier, a broad definition under an NSPS has a different effect. If an entire site is designated as the affected facility for an NSPS, existing sources only become subject to the NSPS if the entire site is modified or reconstructed.

Under the second option, each piece of equipment in the wastewater collection and treatment system would be considered a unique or individual affected facility. This definition, which has a precedent in the refinery wastewater NSPS, is much narrower and more restrictive than the first option. In general, the narrower the definition of source, the more likely it is that changes to existing facilities will be deemed "new sources" under the Act. This definition would result in numerous sources within each SOCMI process unit, as well as numerous sources within the wastewater collection and treatment system, being classified as affected facilities.

The third option, that of considering each process unit as an affected facility, also has recent precedent. The standards for process wastewater components of the proposed pulp and paper rule (58 FR 66077, December 17, 1993) are structured such that the process unit is the affected facility, and controls are required for wastewater streams generated by these units. This approach is also consistent with the one taken in the HON for regulation of new SOCMI process units. Defining the affected facility on a process unit basis avoids the problems associated with having multiple individual collection and treatment system equipment components classified as affected facilities, and it also provides a definition sufficiently narrow in scope so as not to preclude the possibility that existing sources will become subject to the NSPS through the modification and reconstruction provisions. Most importantly, defining an affected facility as a process unit reflects industry construction practices. Almost all new construction, reconstruction, and modification in the SOCMI is carried out by process unit.

After carefully considering each of the above alternatives, the EPA selected process units as the basis for defining affected facilities for the proposed NSPS. This definition allows for routine equipment replacement and minor changes or expansions in existing facilities without subjecting either single emission sources or entire plant sites to requirements of the proposed standards. Providing for full coverage of all new process units will improve ambient air quality, the goal of standards implemented under section 111.

Synthetic organic chemical manufacturing industry process units, which are defined as the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product, include reactors and their associated product separators and recovery devices; distillation units and their associated distillate receivers and recovery devices; associated unit operations; and any feed, intermediate, and product storage vessels, product transfer racks, and connected ducts and piping. A synthetic organic chemical manufacturing process unit includes pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and control devices or systems.

E. Selection of Best Demonstrated Technology

Section 111 of the Act states that NSPS "shall reflect the degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." The technological basis for NSPS that meets these criteria is referred to as "best demonstrated technology (BDT)." In the standards development process for NSPS, BDT should be identified, the performance of BDT established, and a regulatory alternative selected that will require the use of BDT or an equivalent technology.

There are two fundamentally different approaches to controlling VOC emissions from SOCMI wastewater sources. The first is a source reduction or waste minimization approach in which the emission reduction is achieved through a reduction in the quantity of wastewater generated and/or a reduction in the VOC content of the wastewater as a result of process modifications, modifications of operating practices, improved preventive maintenance activities, increased recycling, or segregation of VOC-containing waste streams.

Waste minimization may be achieved through either source reduction or recycling. Source reduction involves the implementation of steps that reduce either the amount of wastewater generated or the amount of VOC contained in the wastewater streams. Recycling includes recovery and/or reuse of potential wastes. Within the SOCMI, there are several means of achieving the objective of either of these waste minimization alternatives. However, in relation to SOCMI wastewater, waste minimization techniques are, for the most part, process unit-specific, and the degree of emission reduction achieved depends on the operating parameters of the individual process unit.

Because of a lack of adequate site-specific data regarding the waste minimization approach within SOCMI, the EPA was unable to develop reasonable estimates of the emission control efficiency of the waste minimization options achievable on a nationwide basis. For example, because pollution prevention activities such as process redesign are site-specific, it would not be practical or possible to stipulate specific requirements for the large number of chemical production processes subject to the proposed SOCMI wastewater NSPS. In addition, the EPA considers that elimination of pollution through material substitution will not be possible in all cases within the SOCMI because SOCMI products cannot be eliminated from use without adverse economic impact. Specifically, because the products of the SOCMI are used in the production of polymers, resins, pesticides, pharmaceuticals, etc., elimination of a SOCMI product would affect not only the SOCMI producer but also the downstream user of that SOCMI product. Many of the end-use products (e.g., resins, pharmaceuticals, etc.) could not be made from other materials. Thus, the EPA maintains that material substitution is better left determined by the marketplace than by mandate through a specific Federal requirement. Therefore, for the reasons cited above, no waste minimization options were included in the regulatory alternatives analysis for this NSPS.

The EPA, however, believes that the SOCMI wastewater NSPS sufficiently encourages pollution prevention. For example, within the regulation's applicability provisions, there is an exemption from the control requirements of the rule for process units that generate wastewaters with small overall volatile organic quantities in the wastewater. Also, the regulatory criteria for identifying the wastewater streams that require control for air emissions are expressed in terms of action levels based on concentration and flow rate cutoffs below which

controls are not required for the wastewater stream. An owner or operator may use any means, including process changes or material substitution but not treatment of the wastewater, to meet the criteria for either the small quantity process unit exemption or the concentration/low-flow cutoff. In addition, within the provisions for wastewater collection and treatment operations, there are compliance options that only specify a percent reduction of VOC emissions. Again, to comply with these options, an owner or operator may use any means, including process changes or recovery devices, to reduce emissions by the specified percent.

The second approach to achieving emission reductions involves emission suppression and treatment of wastewater streams to remove or destroy the organic compounds. Volatile organic compound emissions from SOCMI process unit wastewater can be effectively reduced on a nationwide basis with the following control approach: (1) Identify wastewater streams with significant VOC emission potential; (2) recycle or treat those wastewater streams to remove their potential for emissions; (3) prior to treatment or recycling, manage those waste streams in units that suppress emissions or are equipped with air emission controls; (4) recycle any treatment residuals or treat any residuals to destroy VOC; and (5) control air emissions generated by the treatment processes.

The potential for VOC emissions from wastewater can be assessed based on the characteristics of the wastewater at its point of generation. A reference test method, EPA Method 25D (40 CFR Part 60, appendix A), provides a relative indicator of wastewater emission potential and is used as a tool to implement air emission standards for wastewater. This method, when applied to a wastewater stream, yields a volatile organic concentration for the stream. While not a true indicator of absolute emissions, the volatile organic content of a stream provides a relative indicator of the potential emissions of that stream as compared to other streams that are similarly managed.

There are three primary treatment technologies that are generally applicable and effective in reducing the VOC content of SOCMI wastewater streams. These are steam stripping, air stripping, and biological treatment. There also are several other technologies or methods of treatment that are equally effective in their particular situations but are limited in their applicability within SOCMI. These other technologies include chemical oxidation, carbon and ion exchange adsorption, membrane separation, and liquid-liquid extraction.

Steam stripping is the most universally applicable VOC removal technology for treating wastewater streams generated by SOCMI process units, and this treatment technology has been selected as the basis for standards for SOCMI wastewater. The VOC removal efficiency of steam strippers depends on the characteristics of both the steam stripper and the wastewater stream. Data collected by the EPA related to steam stripper performance for the treatment of wastewaters indicate that organic removal efficiencies of up to 99.9 percent have been demonstrated on wastewater streams at SOCMI plants.

The EPA selected steam stripping as the BDT because it is the most universally applicable treatment technology for removing organic compounds from wastewater streams with the potential to emit VOC and achieves the highest VOC emission reduction among demonstrated VOC control technologies. The EPA is aware that many SOCMI facilities employ biological treatment units for wastewater treatment. However, not all of the compounds regulated under the proposed NSPS are significantly biodegradable, while most of the compounds can be treated more readily by steam stripping. In addition, the amount of emissions reduction achieved by biological treatment, even for biologically degradable compounds, will vary among SOCMI sources because of the ranges in operating and design parameters, such as the biological degradation rate, surface area of the unit, aeration rate, hydraulic residence time, and the active biomass concentration. When reviewing biological treatment as the potential BDT, the EPA determined that the variability in performance is significant across the industry. Although a well operated and maintained biological treatment system can achieve reductions as high as 99 percent, the variability in performance makes quantifying emission reductions for the purpose of setting a standard more difficult than for steam stripping. Emission reductions for biological treatment systems can only be determined on a site-specific basis. However, the EPA emphasizes that SOCMI sources using biological treatment, or any other treatment technologies, can comply with the rule by consistently achieving the required emission reduction (i.e., 95 percent when using biodegradation or 99 percent for other technologies).

To achieve the desired emission reduction from steam stripping or other treatment technology, it is necessary to suppress the wastewater emissions from the point of generation to the treatment device where the organic compounds are either removed or destroyed. Suppression of emissions can be achieved by using physical covers, roofs, and water seals to minimize the contact between the wastewater and the atmosphere. Examples of controls for air emissions from waste management units in a wastewater collection and treatment system, based on suppression techniques, include: fixed or floating roofs on tanks, water seals on drains, gas-tight covers on junction boxes, and covers and enclosures around oil-water separators. Hard piping of a wastewater stream from its point of generation to the steam stripper unit is one method to achieve the suppression of air emission from the wastewater. However, wastewater streams may be managed in other units prior to treatment if those units are equipped with air emission controls.

F. Selection of Format of Proposed Standard

Section 111 of the Act requires an emission standard whenever it is feasible. Section 111(h) states that "if in the judgment of the Administrator, it is not feasible to prescribe or enforce a standard of performance, he may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof * * *" The term "not feasible" is applicable if the emissions cannot be captured and vented through a vent or stack designed for that purpose, or if the application of a measurement methodology is not practicable because of technological or economic limitations. The EPA is proposing standards for VOC emissions from the process unit wastewater segment of this source category. To ensure that emissions are captured and conveyed to a control device, the proposed standards include requirements for:

(1) An enclosed wastewater collection and treatment system;

(2) Treatment to reduce VOC concentration in the wastewater streams; and

(3) Conveyance of emissions vented from the wastewater treatment device and the enclosed wastewater collection system in a closed-vent system to a control device.

Applicability levels are included in the SOCMI wastewater standards to identify those process unit wastewater streams that are required to be controlled. Alternative formats were considered for

applicability levels, waste management units, wastewater treatment processes, and vent collection and vapor recovery or destruction devices.

1. Applicability Levels

The EPA identified certain low flow and low concentration wastewater streams that are not believed to be controlled at existing facilities. Parameters that characterize these streams include volatile organic concentration of the stream and volumetric flow rate, both of which can be determined by using a variety of methods. Therefore, the EPA is proposing concentration and flow rate parameters to identify process unit wastewater streams that do not require control. The EPA also is proposing that process units that generate wastewater with a total annual mass of volatile organics less than 1 Mg per year are exempt from the control requirements of the rule. The EPA solicits comment on whether it is feasible to otherwise identify specific process unit wastewater streams to be controlled. The EPA also solicits information on defining these process unit wastewater streams.

2. Waste Management Units

Two formats were considered in developing the proposed standards for waste management units. These formats were a numerical emission standard and an equipment and work practice standard. A numerical standard would not be feasible because it would be difficult to capture and measure emissions from SOCMI waste management units (i.e., tanks, surface impoundments, containers, individual drain systems, and oil-water separators) for the purpose of evaluating compliance. Due to the number of openings and possible emissions points, accurate measurement would require enclosure of the entire airspace around each piece of equipment. This approach would not be practical for numerous equipment components. Therefore, the Administrator concluded that the format of the standards for this source category should include a combination of a design, equipment, work practice, and operational standards.

In the case of SOCMI waste management units, the intent of the standard is to suppress and capture emissions from the process unit wastewater collection and treatment equipment. The suppression and capture of emissions is accomplished by the installation and proper maintenance of roofs, covers, lids, water seals, and enclosures on tanks, surface impoundments, containers, individual drain systems, and oil-water separators. Captured emissions are then vented to a control device through application of a closed vent system. Work practices such as periodic monitoring, inspection, and repair, would be required to ensure proper operation and maintenance of the equipment.

The proposed standards would require that emissions from waste management units be controlled from the point of generation until the wastewater stream leaves the treatment device or is recycled to the process.

3. Wastewater Treatment Processes

Three formats were considered in developing the proposed standards for reduction of process unit wastewater stream VOC concentration: a numerical format (i.e., emission standard), an equipment design and operational format, and an equipment and work practice standard.

a. *Emission Limitation.* Three alternative numerical emission limitation formats are proposed to provide sources with a maximum degree of operational flexibility in complying with the standards. These emission limitation formats are: a mass percent reduction of VOC in the process unit wastewater stream, an effluent concentration limitation for VOC for individual wastewater streams, or a mass removal requirement for combined wastewater streams. The rationale for providing these alternative emission limitations is discussed below.

The percent reduction format is based on the VOC removal efficiency of a steam stripper; however, any treatment process that can achieve the proposed efficiency can be used to comply with the standard. (See section IV.G for more discussion.) Percent reduction was chosen because it is the best representation of control technology performance, and it may be applied to any configuration of wastewater streams.

The effluent concentration limitations are also based on the performance of a steam stripper. Effluent concentration limitations are provided as alternatives to the percent reduction standard to allow compliance flexibility for facilities required to treat process unit wastewater streams. The use of this alternative is limited to facilities that are treating only affected wastewater streams. The effluent concentration limit is not applicable to situations where combinations or mixtures of both affected and unaffected wastewater streams are treated.

Dilution becomes a concern when more than one waste stream is sent to a single treatment process. For example, diluting a waste with other materials having a volatile organic concentration less than 500 ppmw as a means by which an owner or operator lowers the volatile organic concentration of the waste from an affected stream to a level below 500 ppmw would not comply with the requirements of the proposed standards. A process that simply mixes, blends, combines, or aggregates a waste with other materials does not destroy the VOC in the waste or remove the VOC from the waste. Consequently, when a waste is treated by an organic destruction or removal process, and the waste has been mixed or aggregated together with other wastes or materials with a volatile organic concentration less than 500 ppmw prior to the point of waste treatment, the proposed standards would require that owners or operators meet special requirements to ensure that organics in the waste have actually been removed or destroyed. Under the proposed rules, an owner or operator would be allowed to use a mass reduction requirement to meet the standards.

Required mass removal is an alternative for combined wastewater streams. This provision would require that mixed wastes be treated by an organic destruction or removal process that reduces the volatile organic concentration of the waste to meet a site-specific treatment process mass removal limit. This limit would be determined by the owner or operator on a case-by-case basis using an equation specified in the rules that accounts for the reduction in the volatile organic concentration of the resulting treated waste stream due to dilution. To use this equation, the owner or operator would first determine the volatile organic concentration at the point of waste entry for each individual waste stream that is mixed together prior to entering the treatment process.

b. *Equipment Design and Operation Format.* Another regulatory format proposed for process unit wastewater stream treatment is an equipment design and operational format. The equipment standard consists of the installation of a steam stripper designed and operated at specified parametric levels. The specifications for the steam stripper were developed to provide a standard piece of equipment (with associated operating conditions) that can achieve either the mass percent VOC removal or the effluent concentration of VOC.

This equipment design and operational format was included to provide an alternative means of compliance that all sources would be able to use, while achieving the desired emission reduction.

c. *Equipment and Work Practice Format.* A final equivalent standard proposed for controlling process unit wastewater emissions is an equipment and work practice standard. This format is based on the recycling of process unit wastewater in a closed collection system to the process. When recycling is used, process unit wastewater emissions are controlled with equipment emissions, and the process unit wastewater is reused. This format is proposed to encourage chemical recovery and waste minimization and pollution prevention.

4. Vent Collection and Vapor Recovery or Destruction Devices

An emission standard and two equipment and design standards are proposed for VOC that are routed to vapor recovery or destruction devices used to control VOC from vent collection sources. The proposed emission standard includes two alternatives: a weight percent reduction and an outlet concentration. A mass emission limit was not appropriate for these emission points because variation within the industry, including capacity and processes, greatly affects emission rates, and data were not available to determine the mass limits that would address this variation. In general, a weight percent reduction format will ensure that BDT is applied and the required emission reductions are realized. However, combustion technology that is equivalent to BDT cannot be demonstrated to achieve the selected percent reduction for streams with low VOC concentrations. Therefore, an alternative concentration limit that is achievable has been included. The combination of the weight percent reduction or concentration limit will ensure that the best technology is applied to all SOCMI process emission points, whether they have higher or lower concentrations.

Two equivalent standards, each of which is an equipment and design standard, are also proposed. The first equipment and design standard is the requirement that gas streams be routed to a combustion device (other than flares) designed and operated at a minimum temperature and residence time. For flares, an equipment standard with stated equipment and operating specifications is being proposed as the format because it is very difficult to measure emissions from a flare to determine its efficiency. These standards have been determined by the EPA to be equivalent to the emission standards and are proposed to provide maximum compliance flexibility.

G. Selection of Standards

This section discusses the rationale for the selection of the standards for the SOCMI process unit wastewater source category. The selection of applicability levels, numerical limitations for the emission standards, and design parameters are included.

1. Applicability Levels

For the purposes of developing wastewater standards, the EPA has concluded that the effectiveness of the control technologies available to limit VOC emissions from wastewater does not vary. Controls are assumed to be either "on" or "off," depending on whether a particular stream is identified as one that must be controlled. Therefore, the basic foundation of the proposed provisions for SOCMI process unit wastewater is to identify wastewater streams for control and treatment based on a specific criteria or action level at the point of wastewater generation, prior to dilution and air emissions losses. Control of a wastewater stream is triggered if it is determined that the stream exceeds the action level established by the standard. With this approach, the primary decision that needs to be made in establishing BDT is selecting the appropriate action level for the source category.

Regulatory alternatives for a standard to control emissions from wastewater have, in previous EPA regulatory analyses, been typically expressed in terms of action levels based on a concentration cutoff above which a wastewater stream must be controlled. For the SOCMI wastewater NSPS, the primary action level will be defined in terms of the volatile organic concentration, as measured by method 25D. The standard also includes exemptions for low flow streams. This is in consideration of the fact that, even though a waste stream may exceed an action level, the total mass of contaminant present in a stream with a low flow rate is low enough that the waste or wastewater stream does not have the potential for significant emissions. Process units that generate wastewater with a total annual volatile organic mass less than 1 Mg are also exempt from the control requirements of the proposed rule. The impacts analysis indicated that the 1 Mg/yr small quantity exemption has little effect on the emission reductions achieved under the regulatory alternatives examined while significantly reducing the overall cost of compliance.

The five regulatory alternatives analyzed in the development of the proposed standard were combinations of volatile organic concentrations and flow rate cutoffs. The alternatives were analyzed both with and without the small quantity cutoff of 1 Mg per year of volatile organic mass. For each regulatory alternative, steam stripping (or an equivalent emission reduction technique) would be required for all wastewater streams with flow rates and volatile organic concentrations greater than their respective action levels.

Values were chosen for concentration and flow rate cutoffs to span ranges believed by the EPA to be reasonable based on knowledge of the SOCMI wastewater streams to be regulated and on previous standards development efforts. Further, the ranges of flow rates and concentrations represented in these alternatives, when impacts are estimated, illustrate the range of cost-effectiveness levels that apply to regulatory alternatives and allow selection of an alternative that will achieve optimum control (i.e., greatest emission reduction for lowest cost).

As previously noted, method 25D provides a relative indicator of wastewater emission potential. While not a true measure of VOC emissions, the volatile organic concentration of a wastewater stream does provide a relative means of comparing the emission potential of a wastewater stream to other streams similarly managed and of comparing the emission potential of a wastewater stream before and after treatment.

Because the proposed rule regulates VOC emissions, the first choice for a test method is one that measures the concentration of all VOC. However, this approach would require speciation test methods which are costly to use. As an alternative, the EPA selected method 25D which does not speciate but measures total volatile organic concentration. This method, which is much less costly, has been used in other wastewater related regulations. For example, method 25D is allowed in the HON for measuring volatile organic concentration in applicability determinations. However, the HON does not allow use of method 25D in calculations of mass removal for treatment processes. Instead, the HON uses a test method that speciates HAPs for determining mass removal by treatment.

As currently structured, the proposed rule would make extensive use of the volatile organic concentration (as measured by Method 25D). The concentration cutoffs for determining if a wastewater stream is an affected stream are formatted in terms of the volatile organic concentration. The

small quantity cutoff of 1 Mg/yr is calculated using the volatile organic concentration; the effluent concentration limit is expressed in term of volatile organic concentration; and the mass removal requirements of the proposed rule are calculated using the volatile organic concentration. The EPA is aware that using the volatile organic concentration rather than a direct measure of VOC does have some limitations and drawbacks. The test method used to measure volatile organic concentration, Method 25D, is based on volatility (i.e., Henry's Law) and does not speciate organic compounds. Therefore, the results may reflect the presence of compounds that are not considered VOC (based on their photochemical reactivity). The EPA is considering ways of discounting the non-VOC components of the test results but has not included a means to do so in the proposed regulation. One option for accomplishing this would be to allow owners or operators the option of using a test method that speciates VOC. If this approach is selected, provisions could also be made to allow the measured VOC concentration to be adjusted to represent VO concentration by multiplying by the fraction emitted (f_m) values reported in the IWW CTG. The EPA also intends to include an alternative percent reduction standard based on the stripability of specific volatile organic constituents. This approach is also described in the IWW CTG. Because of the issues associated with the use of method 25D for applicability and compliance determinations, the EPA is soliciting comments all aspects of this approach.

Regulatory Alternative 1 is to require emission control only of those SOCMI process unit wastewater streams having a volatile organic concentration at the point of wastewater generation equal to or greater than 1,000 ppmw and a flow rate greater than or equal to 10 Lpm. Regulatory Alternative 2 is to require emission control only of those SOCMI process unit wastewater streams having a volatile organic concentration at the point of wastewater generation equal to or greater than 800 ppmw and a flow rate greater than or equal to 5 Lpm. Regulatory Alternative 3 is to require emission control only of those SOCMI process unit wastewater streams having a volatile organic concentration at the point of wastewater generation equal to or greater than 500 ppmw and a flow rate greater than or equal to 1 Lpm. Regulatory Alternative 4 is to require emission control only of those SOCMI process unit wastewater streams having a volatile organic concentration at the point of wastewater generation equal to or greater than 100 ppmw and a flow rate greater than or equal to 1 Lpm. Regulatory Alternatives 1 through 4 also have a maximum volatile organic concentration limit whereby any wastewater stream with a volatile organic concentration above the limit would require emission control regardless of the wastewater stream flow rate; for Regulatory Alternatives 1 through 4, the same maximum concentration limit of 10,000 ppmw was used in the regulatory alternatives analysis. Regulatory Alternative 5 is to require air emission control for all SOCMI process unit wastewater streams with any detectable volatile organic concentration as determined at the point of wastewater generation (i.e., a volatile organic concentration action level of 0 ppmw).

The EPA estimated nationwide VOC emission reductions that would be achieved by implementing air rules based on each of the five regulatory alternatives; the EPA also estimated the capital and annual cost of achieving the emission reductions and the nonair quality environmental and energy impacts associated with each regulatory alternative. These estimates of emissions and costs reflect the annual impacts in the fifth year following promulgation of the NSPS. The methodology used to develop estimates of VOC emissions and other impacts within the SOCMI source category for the five regulatory alternatives is based on the use of a model plant analysis and is discussed in detail in Chapter 6 of the BID and in docket number A–94–32.

Model plants are typically defined to represent the affected facility over a range of sizes corresponding to the range found in the regulated industry. Two previous EPA studies developed model plants that relate to emissions from wastewater streams at SOCMI facilities: the Guideline Series Document for the Control of Volatile Organic Compound Emissions from Industrial Wastewater (EPA–453/D–93–056, September 1992 Draft) and the BID related to the development of the HON (EPA–453/D–92–016, November 1992). The EPA developed model plants for the SOCMI wastewater NSPS regulatory analysis by making use of information, data, and methodologies developed in these previous studies.

In the absence of implementing any of the regulatory alternatives (baseline), nationwide, fifth-year wastewater VOC emissions from new, modified, and reconstructed SOCMI process units are estimated to be approximately 37.2 thousand Mg/yr. Assuming implementation of the individual regulatory alternatives, the emissions are 24.1 thousand Mg/yr for Regulatory Alternative 1, an emission reduction from baseline of 13.0 thousand Mg/yr achieved at total annual cost of about $4.3 million; 23.1 thousand Mg/yr for Regulatory Alternative 2, an emission reduction from baseline of 14.0 thousand Mg/yr achieved at total annual cost of about $5.2 million; 21.0 thousand Mg/yr for Regulatory Alternative 3, an emission reduction from baseline of 16.2 thousand Mg/yr achieved at total annual cost of about $8.8 million; 18.6 thousand Mg/yr for Regulatory Alternative 4, an emission reduction from baseline of 18.6 thousand Mg/yr achieved at total annual cost of about $15.6 million; and 14.2 thousand Mg/yr for Regulatory Alternative 5, an emission reduction from baseline of 22.9 thousand Mg/yr achieved at total annual cost of about $41.1 million.

The control costs reflect the fact that most plants affected by the NSPS will also be affected by the HON, and they are expected to install a steam stripper for treating wastewater streams regulated by the HON. The proposed NSPS will require these SOCMI plants to control additional wastewater streams that do not require control under the HON. In estimating cost impacts of the NSPS, the EPA assumed that those plants affected by both regulations would increase the capacity of the steam stripper required under the HON rule to provide sufficient capacity to handle the additional wastewater streams that would require control under the NSPS. The costs associated with the NSPS is the difference in costs for the two steam strippers, one with the capacity to handle wastewater streams regulated by the HON and the other with the capacity to handle wastewater streams regulated by both the HON and the NSPS.

After considering the alternatives and the emission reductions achieved, the resulting control costs, and other associated impacts, the EPA concluded that the control requirements in Regulatory Alternative 3 reflect the application of the best system of emission reduction that has been adequately demonstrated.

A more stringent level of emissions limitation was not selected because control beyond Regulatory Alternative 3 would result in costs that are disproportionately large compared to the additional emission reduction achieved. Regulatory Alternatives 4 and 5 were estimated to achieve an additional emission reduction of about 2.4 thousand and 6.7 thousand Mg/yr, respectively, at an additional cost of

about $6.8 million or $32.3 million for the two alternatives.

Under the proposed rule, the control requirements for new, modified, and reconstructed SOCMI process units would apply to two sets of wastewater streams: streams with flow rates of 1 Lpm or greater and a volatile organic concentration of 500 ppmw or greater; and any stream with a volatile organic concentration of 10,000 ppmw or greater (regardless of flow rate).

2. Process Wastewater Collection System

As discussed previously, effective control of SOCMI process unit wastewater emissions requires control from the point of generation until treated to comply with the treatment standards, or until recycled to a controlled process unit that is in compliance with the standards. The proposed standards require that emissions be controlled during wastewater collection and transport in piping or individual drain systems and during handling and treatment in wastewater tanks, containers, surface impoundments, and treatment devices by using covers, lids, water seals, roofs, and enclosures designed to reduce emissions. Proper work practices, including periodic monitoring, inspection, and repair, are also required to ensure that the equipment will control emissions. Emissions from these wastewater collection, transport, and handling systems are believed to be significant, thereby requiring the use of controls to effectively reduce air emissions.

3. Process Wastewater Treatment

The proposed regulation provides four options for demonstrating compliance with the SOCMI process unit wastewater treatment standards: three treatment options based on numerical emission limitations and an equipment and design specification. Of the options based on numerical emission limitations, the first option may be adopted by all affected sources. The remaining options based on numerical emission limitations may only be used by certain classes of sources, as discussed below. Any facility may choose to use the equipment and design specification as an alternative to the emission limitation requirements.

The first treatment process compliance option is removal of VOC from the wastewater based on the removal efficiency of the BDT, which is a design steam stripper (i.e., a steam stripper meeting specific design and operational criteria). Under this equipment and design standard option for demonstrating compliance with the process wastewater treatment standard, if the owner or operator installs and operates a steam stripper that meets the requirements, listed below, the treatment unit is in compliance with the treatment process standard of the rule. These design and operating parameters include:

(1) Minimum active column height of 5 meters;

(2) Countercurrent flow configuration with a minimum of 10 actual trays;

(3) Minimum steam flow rate of 0.04 kilograms of steam per liter of wastewater feed;

(4) Minimum wastewater feed temperature to the steam stripper of 95 degrees Centigrade;

(5) Maximum liquid loading of 67,100 liters per hour per square meter; and

(6) Minimum steam quality of 2,765 kilojoules per kilogram.

The first of three additional treatment process compliance options that are formatted as a numerical emission limitations is a requirement for 99-percent removal of volatile organic mass from the wastewater. The 99-percent removal may be achieved through use of steam stripping on other control technologies. For example, another way to achieve the 99-percent removal is through air stripping.

A second treatment process compliance option that is provided for demonstrating compliance is to treat the wastewater stream to achieve a volatile organic concentration of 50 ppmw provided the owner or operator demonstrate a volatile organic mass removal of 95 percent or greater. This treatment option is provided to allow additional flexibility for the owner in demonstrating compliance with the wastewater treatment standard; treatment of wastewater streams to a concentration of less than 50 ppmw generates a wastewater stream that would require no additional control from the point at which it exits the treatment unit. This option is limited in its applicability for the reasons discussed in Section IV.F.3. The 50 ppmw limit was selected based on analysis characterizing the volatile organic concentration of wastewater streams in the SOCMI database that would be subject to the proposed standards both before and after treatment. The limit is the minimum concentration that characterizes the volatile organic level of SOCMI wastewater streams treated to comply with the proposed standards using the BDT steam stripper.

The third numerical emission limitation option for demonstrating compliance is to remove a calculated mass of VOC from a wastewater stream where the mass of VOC to be removed is calculated on the basis of the annual average wastewater density and flow rate and the volatile organic average concentration in the wastewater stream. This option is designed to accommodate the control of combined streams for the reasons discussed in section IV.F.3.

The proposed rule also provides an alternative treatment process compliance option for biological treatment units; under the alternative, an owner or operator must treat affected wastewater streams in a biological treatment unit that destroys at least 95 percent of the organics. The EPA is allowing a 95-percent destruction efficiency for biological treatment units as a compliance alternative for the treatment process standards in part because the Agency believes the use of these units will have the effect of increasing the overall mass reduction achieved under the rule. This results from the fact that if affected wastewater streams are allowed to be managed in a biological treatment unit, then it is fully expected that other non- affected wastewater streams would also be managed in these biological treatment units, resulting in additional control achieved or streams that may not otherwise be controlled under the regulation. The alternative for biotreatment units in this rule is also consistent with other regulations regarding wastewater treatment, such as the biotreatment provisions of the HON.

4. Vent Collection for Vapor Recovery or Destruction

Volatile organic compounds are emitted from vents on enclosed or covered process wastewater collection and treatment system devices such as individual drain systems and steam strippers. These emissions are required to be vented through a closed-vent system meeting the requirements established in the rule. The closed-vent system must route these vapors to a vapor recovery or destruction device achieving at least a 95-percent destruction or recovery. This limitation is based on the average efficiency of a conventional VOC recovery devices. The option of meeting an equivalent standard (achieving an outlet concentration of 20 ppm by volume on a dry basis corrected to 3 percent oxygen or providing a minimum residence time and temperature) for enclosed combustion devices is provided as well.

Because biological treatment units destroy the VOC in the wastewater, a well-operated biological treatment unit

is not required to be covered and vented to vapor recovery and destruction. Instead, the proposed regulation requires an owner or operator electing to use a biological treatment unit to meet the 95 percent control requirement by demonstrating that 95 percent of the volatile organic entering the biological treatment unit is being destroyed and not emitted to the atmosphere.

H. Modification and Reconstruction Considerations

Under the General Provisions for modification (40 CFR 60.14) and reconstruction (40 CFR 60.15), facilities that are modified or reconstructed after the date of proposal of a standard are subject to the standard. An owner or operator of an existing facility who is planning changes in the facility that could be considered modification or reconstruction shall notify the appropriate EPA Regional Office 60 days prior to making the changes or commencing construction, as applicable. The enforcement division of the appropriate EPA Regional Office will make the final determination as to whether an existing facility is modified or reconstructed and, as a result, subject to the standards of performance of an affected facility.

1. Modification

Upon modification of any emission source, an existing facility becomes an affected facility and therefore, subject to the standard. With certain exceptions, any physical or operational change to an existing process unit that would increase the emission rate from that process unit of any pollutant covered by the standard would be considered a modification within the meaning of section 111 of the Act. If a physical or operational change to an existing process unit would increase VOC emissions from the process unit, the owner or operator either can take appropriate measures to offset the emission increase within the process unit such that there is no overall net increase in emissions from the process unit as a result of the physical or operational change, or allow the process unit to be classified as an affected facility under the modification criteria and control the process unit to meet the requirements of the NSPS.

Under the current regulations, an emission increase from one affected facility (i.e., process unit) may not be offset with a similar emission decrease at another affected facility to avoid becoming subject to NSPS. In addition, all emissions, not just the incremental increase in emissions, of the pollutants that have increased from the affected facility must be in compliance with the applicable standards.

Under the General Provisions to part 60, the following physical or operational changes are not considered to be modifications even though emissions may increase as a result of the change (see § 60.14(e)):

1. Routine maintenance, repair, and replacement (e.g., lubrication of mechanical equipment; replacement of pumps, motors, and piping; cleaning of equipment);

2. An increase in production rate without a capital expenditure (as defined in § 60.2);

3. An increase in the hours of operation;

4. Use of an alternative fuel or raw material if, prior to proposal of the standard, the existing facility was designed to accommodate that alternative fuel or raw material;

5. The addition or use of any system or device whose primary function is to reduce air pollutants, except when an emission control system is replaced by a system determined by the EPA to be less environmentally beneficial; and

6. Relocation or change in ownership of the existing facility.

The following discussion identifies some possible changes to process unit operations used in SOCMI that might be considered modifications. The magnitude of the industry covered and the complexity of the manufacturing process permit only a general discussion of these possible changes. Therefore, the list of potential modifications for process units provided below is not inclusive.

a. *Feedstock, Catalyst, or Reactant Substitution.* Feedstock, catalyst, or reactant substitution is dictated by economics and the level of availability of the feedstock, catalyst, or reactant. Depending upon the specific process, changes in feedstock or catalyst may require substantial capital investment to modify the process to accommodate the change. The magnitude of the capital investment may prohibit feedstock or catalyst substitution for many chemicals.

Many of the chemicals produced in the SOCMI can be manufactured from two or more different feedstocks. For example, cyclohexane can be manufactured using either phenol or cyclohexanol as the feedstock. In most cases; however, feedstock substitution would likely require both equipment and process changes.

Substitution of reactants within the SOCMI process units is also a likely change that could constitute a modification. For example, for many chemicals, the potential exists to substitute air for pure oxygen or a chemical oxidant as a reactant or vice versa. Changing to an air oxidation process may be advantageous because: (1) Air is readily available; and (2) expensive corrosion-resistant materials are not required compared to the use of chemical oxidants. However, there may be major disadvantages in changing from an oxygen or chemical oxidation process to an air oxidation process, including a substantial reduction in plant capacity, a large increase in the reactor-related process vent stream flow rate (i.e., increased VOC emissions), and an altered product mix. The use of oxygen or air oxidation may be substituted for chemical oxidation processes as well. Reactant substitutions of this type may increase process unit VOC emissions to the atmosphere and, as a result, may constitute a modification (unless the fixed capital expenditure exceeds 50 percent of the fixed capital cost required to construct a comparable new facility, in which case it would be considered reconstruction).

b. *Process Equipment Changes.* Process equipment changes also may constitute modifications. Examples of potential modifications are replacing a fixed-bed reactor with a fluidized-bed reactor, increasing the plant capacity by increasing the size of the reactor or adding additional reactors, and changing the product recovery system (e.g., from an absorber to a condenser). Such changes might be considered modifications because they can result in increased VOC emissions. Again, capital expenditures may be a factor in determining whether the change is a modification or a reconstruction.

c. *Combinations.* A combination of the changes described above could be chosen in any given situation with the decision based on the most advantageous economics for the site-specific conditions. The combination of changes might be considered a modification if they resulted in an increase in emissions. The most common combinations are plant expansions or simultaneous changes in feedstock and catalyst as described earlier.

2. Reconstruction

An existing facility may become subject to NSPS if it is reconstructed. Reconstruction is defined in § 60.15 as the replacement of the components of an existing facility to the extent that: (1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost required to construct a comparable new facility; and (2) it is technically and economically feasible

for the facility to meet the applicable standards. Because the EPA considers reconstructed facilities to constitute new construction rather than modification, reconstruction determinations are made irrespective of changes in emission rates. If the facility is determined to be reconstructed, it must comply with all of the provisions of the standards of performance applicable to that facility.

I. Monitoring Requirements

The proposed standards include requirements for continuous monitoring to ensure that owners suppress and capture emissions from the process unit wastewater collection system, treat the wastewater to reduce the VOC concentration, and convey emission from the wastewater collection and treatment to a control device as specified in the regulation. The specific parameters that need to be monitored are discussed below.

Enhanced monitoring is required for certain control device parameters to demonstrate compliance with the standards. Failure to maintain the established values of the monitored parameters would be an enforceable violation of the emission limits of the standard.

1. Wastewater Collection

The standards require monitoring to ensure that the wastewater collection system equipment, which includes tanks, surface impoundments, containers, and drain systems, is operated with no detectable leaks. The standards require owners or operators to monitor initially using Method 21 to demonstrate that the system has no detectable leaks according to the procedures in the rule. The standards also include a requirement for semi-annual visual inspection of the wastewater collection system to detect and repair any leaks in the individual drain system.

2. Wastewater Treatment

The proposed regulation requires each owner or operator using a steam stripper to comply with the design and equipment standard specified for wastewater treatment processes to install, calibrate, operate, and maintain according to manufacturers' specifications continuous monitors with continuous recorders of:

(1) The mass rate of wastewater fed to the stripper;

(2) The mass rate of steam fed to the stripper; and

(3) The wastewater column feed temperature.

These parameters are either established during an initial performance test or according to design specification in the regulation. They are typically monitored in the industry to ensure proper operation; therefore, ensuring continuous compliance of a steam stripper with the specified requirements for VOC removal requires no additional monitoring burden.

Owners or operators using a biological treatment unit to achieve a 95-percent total VOC reduction across the unit are required to measure the volatile organic concentration in the influent and effluent on a monthly basis and identify appropriate parameters to be monitored to ensure continuous compliance. These parameters must be determined during the initial performance test as demonstrated to the Administrator's satisfaction, and monitored accordingly.

3. Enclosure and Closed-vent System Monitoring Requirements

The proposed rule establishes requirements to ensure that negative pressure is maintained on enclosures and that emissions are routed through a closed-vent system with no detectable leaks. If the closed-vent system contains bypass lines, the proposed standards require the owner or operator to ensure emissions are not bypassing the control device.

An initial performance test must be conducted to ensure that negative pressure is maintained on all openings of each enclosure, and a monthly inspection must be performed to confirm that any enclosure openings that were closed during the performance test remain closed.

To ensure continuous compliance with the requirement of no detectable leaks from the enclosure and closed-vent system, monitoring with a portable hydrocarbon detector is required to be performed initially along with a program of annual visible inspections of ductwork, piping, and connections to covers for evidence of visible defects. If visible defects in the closed-vent system are observed, readings greater than 500 ppm by volume above background are measured, or enclosure openings do not have negative pressure, a first effort to repair the closed-vent system must be made as soon as practicable and no later than 5 calendar days after identification of the problem. The repair must be completed no later than 15 calendar days after identification.

To ensure the control device is not being bypassed if bypass lines are present, owners or operators must install, calibrate, maintain, and operate according to manufacturer's instructions a flow indicator that provides a record of emission point gas stream flow at least once every 15 minutes. As an alternative, the proposed rule allows bypass lines to be sealed in the closed position and visually inspected to ensure they are being maintained in the closed position. The use of flow indicators or seals on the bypass lines ensures that process vent streams are continuously being routed to the control device.

4. Control Device Monitoring

The purpose of enhanced monitoring is to provide a means for major sources to demonstrate that the affected facility is in continuous compliance with the standards. In light of these requirements, the EPA has considered how sources subject to the NSPS would demonstrate continuous compliance with standards for SOCMI process unit wastewater.

The EPA considered three monitoring options for control devices: (1) the use of continuous emission monitors (CEMS) to measure total VOC; (2) the use of CEMS for surrogate compounds such as total hydrocarbons (THC) as surrogate for total VOC; or (3) the continuous monitoring of control device operating parameters.

The first two options were determined to be unreasonable for this industry as discussed below. Although continuous emission monitors for total VOC are currently available, these devices are not universally applicable within this source category. Current emission monitoring systems that measure VOC emissions operate by flame ionization detection (FID), photoionization detection (PID), non-dispersive infrared (NDIR) absorption, or other detection principles that respond to VOC levels. However, in most cases, VOC monitors provide only a measure of the relative concentration level of a mixture of organics, rather than quantification of the organic species present. This trait necessitates the use of VOC CEMS more as a relative indicator rather than as a conventional emission monitor. Cases where it is possible to consider the VOC monitor as a conventional CEMS are, for the most part, limited to instances where only one organic species is present or where equal incremental amounts of each of the organic species present generate equal instrument responses. These instances are very unlikely to occur at SOCMI process units.

In addition, a CEMS system that uses gas chromatography to measure gaseous organic compound emissions may not be suitable for applications where the number of VOC compounds to be monitored exceeds five. (See proposed

Performance Specifications 101 and 102, appendix A of 40 CFR part 64, October 22, 1993 at 58 FR 54648.) However, SOCMI wastewaters can be expected routinely to have multiple chemical constituents with variable concentrations. Under these conditions, implementation of a CEMS system would be a costly undertaking. Furthermore, parametric monitoring has been demonstrated to be an effective means of indicating continuous compliance. Therefore, because a CEMS requirement would place an extra burden on the industry without increasing the accuracy of compliance demonstrations, the first two options were determined to be unreasonable. Owners or operators using control devices (e.g., incinerators or condensers) to comply with the proposed standards may use CEMS where applicable to demonstrate continuous compliance. However, parameter monitoring is also allowed if control devices are used. The Agency has selected temperature as the operating parameter that would then be monitored to determine ongoing compliance with the standard. For example, owners or operators of incinerators would have to monitor the combustion temperature (or the temperature before and after the catalyst bed if a catalytic incinerator is used), and owners or operators of condensers would have to monitor the temperature of the vapor exhaust stream.

The use of CEMS on control devices is not proposed to be required for the following reasons:

(1) CEMS cannot accurately determine compliance for many SOCMI wastewaters;

(2) For each of these control systems a measurable control device parameter (e.g., temperature) is considered to provide a suitable indication of performance for determining compliance; and

(3) Temperature monitors are considerably less costly than CEMS.

The proposed standards, therefore, would be based on parameter monitoring to demonstrate compliance with the standards for control devices. The Agency is soliciting comments on the selection of temperature as a parameter to monitor for compliance and any available data on the correlation of the control device parameter to the control efficiency. The proposed rule would not preclude owners or operators who are using control devices to comply with the rule from choosing to use CEMS to demonstrate compliance.

The continuous monitoring of control device operating parameters, established during the performance test or specified through design, is used to determine whether continuous compliance is achieved. Failure to maintain the established values for these parameters would be an enforceable violation of the emission limits of the proposed standards. Some of the process parameters are already monitored as part of normal operation. Therefore, continuous compliance is assured without imposing an additional unnecessary burden on the facility.

In the proposed rule, enhanced monitoring is only applicable to control devices used to meet the requirements of the regulation. However, the EPA fully intends to make this rule consistent with other enhanced monitoring requirements. Therefore, the EPA is soliciting comments on the extent the enhanced monitoring requirements in the proposed rule are sufficient to meet the overall requirements of the Agency with regard to enhanced monitoring under section 114(a) of the CAAA or are additional requirements needed within the rule to meet the requirements of the CAAA.

J. Performance Test Methods

Test methods and procedures are required to ensure compliance with the proposed standards, which include requirements for demonstrating that an emission point or process unit wastewater stream does not require control or that it is in compliance with the control requirements. Requirements to test for no detectable leaks from control devices, enclosure and closed-vent systems, and process wastewater collection and treatment systems are also included.

1. Wastewater Concentration and Flow Determination

The standards require the use of approved test methods and procedures to ensure consistent and verifiable results for demonstration that a wastewater stream does not require control, or for demonstration that the allowed emission levels are achieved when controls are applied. Affected wastewater streams are subject to the standards if they meet either of the following conditions at the point of generation:

(1) The average flow rate of the affected wastewater stream is 1.0 Lpm or greater and the mass-weighted average volatile organic concentration is 500 ppmw or greater; or

(2) The mass-weighted average volatile organic concentration of the affected wastewater stream is 10,000 ppmw or greater, regardless of the stream flow rate.

Two important parameters must be quantified to determine whether an affected stream must be controlled. These parameters are the annual wastewater quantity for a stream and the volatile organic concentration of the stream at the point of generation.

Several methods can be used to determine wastewater quantity. These methods include using knowledge about the capacity of the wastewater-generating process or the waste management unit, and using measurements that are representative of maximum annual wastewater generation rates. Knowledge-based methods are allowed to provide flexibility and to provide less expensive alternatives than actual annual measurement if the appropriate information is available.

For quantifying the volatile organic concentration of the wastewater streams, three methods are available: (1) Knowledge of the wastewater streams; (2) bench scale or pilot scale test data; or (3) physical measurements of volatile organic concentration. These methods have been allowed to provide flexibility and to provide less expensive alternatives than actual measurement if the appropriate information is available.

If the actual volatile organic concentration of the wastewater stream is determined through direct measurement, the regulation specifies that the procedures of Method 25D in appendix A of part 60, "Determination of the Volatile Organic Concentration of Waste Samples," which provides a relative measure of the emissions potential of the stream, be used to analyze the sample. Alternatively, the sample may be analyzed to determine the volatile organic concentration using any test method or test data that has been validated according to the protocols in Method 301 in appendix A of part 63. As pointed out in section II of this document, there are several issues associated with the use of method 25D on which the EPA is soliciting comment.

Flow rates may be determined using information about the maximum annual production capacity of the process unit, knowledge of the process, and mass balance information or by measuring the flow rate at the point of generation during conditions that are representative of average wastewater generation rates.

2. Performance Tests

The initial performance test requirements of section 60.8 of the part 60 General Provisions are not required for treatment processes or vent stream control devices. Instead, the proposed standards provide alternative means of

compliance that the EPA considers equivalent to the direct measurement of emissions as required under § 60.8 and less burdensome to the industry.

The proposed rule includes treatment process performance test procedures for the effluent concentration, percent reduction, and required mass removal standards. These test procedures involve measurements of volatile organic concentrations using Method 25D or any other methods for which the results are validated using Method 301. Performance testing is to be conducted at representative inlet flow rates and at volatile organic concentrations under which it would be most difficult to determine compliance.

For noncombustion treatment processes complying with the percent reduction requirement, the total volatile organic mass flow rate entering the treatment process and exiting the treatment process shall be determined by computing the product of the average flow rate of the wastewater stream entering or exiting the treatment process and the average total volatile organic concentration of the entering or exiting wastewater streams, respectively. The flow rate of the entering and exiting wastewater streams shall be determined using the inlet and outlet flow meters, respectively.

For combustion treatment processes complying with the percent reduction requirement, the total volatile organic mass flow rate entering the combustion unit shall be determined by computing the product of the average flow rate of the wastewater stream entering the combustion unit, as determined by the inlet flow meter, and the average total volatile organic concentration in the waste stream entering the combustion device. The volume exhausted shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate. The average total organic concentration in the exhaust downstream of the combustion unit shall be determined using Method 18 of appendix A of part 60, or any other test method validated according to the procedures in Method 301 of appendix A of part 63.

A performance test to demonstrate compliance of a vent stream control device with the organic compound reduction efficiency requirement shall use Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, to select sampling sites. The mass flow rate of organics entering and exiting the control device shall be determined by using Method 2, 2A, 2C, or 2D of appendix A of part 60, as appropriate, to determine the volume exhausted and by using Method 18 of appendix A of part 60, or any other test method validated according to the procedures in Method 301 of appendix A of part 63, to determine total organic concentration.

A performance test to demonstrate compliance with the mass removal provision shall consist of a determination of mass removal required to be achieved and a determination of mass removal actually achieved. The total required mass removal is calculated by adding together the required mass removal for each individual affected stream to be combined for treatment. The required mass removal for each affected wastewater stream prior to combination of the streams for treatment shall be determined using the wastewater average flow rate and volatile organic average concentration at the point of generation for each affected wastewater stream to be combined for treatment. The actual total volatile organic mass removal in the wastewater stream shall be determined using the same procedures as described for noncombustion treatment processes complying with the percent reduction requirement.

Finally, a performance test to demonstrate compliance of a biological treatment process with the 95-percent mass reduction requirement must be conducted using the procedures specified in the proposed rule. The control efficiency of the biological treatment unit is a function of the fraction biodegraded in a properly operated biological treatment unit. This fraction shall be determined using the procedures in appendix C of 40 CFR part 63.

A performance test is not specified for the design steam stripper; installation of the specified equipment, along with monitoring to show attainment of the specified operating parameter levels, demonstrates compliance with the equipment design and operation provisions.

Each vapor collection system, closed-vent system, fixed roof, cover, or enclosure must be evaluated initially and at annual intervals using Method 21 of appendix A of part 60 to determine the presence of detectable emissions from leaks. Method 21 represents the best available method for detecting leaks from these sources.

K. Reporting and Recordkeeping Requirements

The reporting requirements necessitated by the proposed standard are authorized by section 114 of the Act. In addition to the reporting and recordkeeping requirements specified in the part 60 General Provisions, the proposed standard would require the submittal of several types of reports. First, the part 60 General Provisions would require notification reports, which inform the Agency of facilities subject to the NSPS. These reports include notification of construction, anticipated and actual startup dates, and physical or operational changes. In addition to the information required by the General Provisions, owners or operators would be required to provide information with the notice of construction identifying the process unit and stream as well as a brief description of the intended treatment and/or control technology. As part of the notification of startup, sources would also be required to provide more detailed information on the waste stream and waste management units. For example, sources would provide information on the chemical manufacturing processes that are subject to the proposed rule, information on the intended compliance strategy, and any required control device parameter ranges, unless the parameter ranges have already been established in the operating permit.

Reports of the required design analysis (for steam strippers) or of performance test results of emission control systems would be required as well. These reports show whether a facility is initially meeting the level of the standard. The proposed rule would override the General Provisions requirements for quarterly reports for excess emissions and monitoring systems performance. Instead, semi-annual reports would be required in the event of each control equipment failure or instance when monitored parameters are not within their established values. Each semi-annual report shall include the date of the inspection, identification of each waste management unit in which a control equipment failure was detected, description of the failure, and description of the nature of and date the repair was made. The semi-annual report shall also contain information on monitoring results that exceed the boundaries established in the operating permit.

Owners or operators are required to keep records of all reports submitted under the proposed rule, of all monitoring parameters, equipment inspections, and of the determination of volatile organic concentration and/or annual average flow rate using knowledge of the process. Records must be maintained for 5 years.

L. Solicitation of Comments

The EPA seeks full public participation in arriving at its final

decisions, and strongly encourages comments on all aspects of this proposal from all interested parties. Whenever applicable, full supporting data and detailed analysis should be submitted to allow the EPA to make maximum use of the comments. The Agency invites all parties to coordinate their data collection activities with the EPA to facilitate mutually beneficial and cost-effective data submissions. The EPA is interested in participating in study plans, data collection, and documentation. Please refer to the **FOR FURTHER INFORMATION** section at the beginning of this preamble for technical contacts at the EPA. All comments should be directed to the EPA Air Docket, Docket No. A–94–32 (see **ADDRESSES**). Comments on this notice will be accepted to the date specified in **DATES.**

In addition, the EPA particularly requests comments and data on the following issues:

1. The proposed approach to reducing the burden on owners or operators of waste management units, treatment processes, or control devices that allows owners or operators to comply with the control requirements of the proposed SOCMI NSPS for these waste management units, treatment processes, or control devices by demonstrating compliance with the benzene waste operations NESHAP, the HON, or the RCRA air emission standards for hazardous waste treatment, storage, and disposal facilities;

2. The EPA's proposed approach to identifying parameters that define process unit wastewater streams that do not require control, whether it is feasible to identify such streams in ways other than through concentration or flow rate cutoffs, and information for defining such streams;

3. The selection of temperature as a control device parameter to monitor to demonstrate compliance with the control device standards, and the correlation between temperature and the control efficiency, especially for regenerable activated carbon adsorption systems; and

4. The inclusion of maintenance wastewater as part of the scope of the proposed standards and any barriers to the control of maintenance wastewater streams that meet the concentration and flow criteria used to identify those streams that require control at new facilities.

5. The accessibility of SOCMI monitoring data and periodic reports to the general public as required by section 114(c) of the CAAA.

6. The extent the enhanced monitoring requirements in the proposed rule are sufficient to meet the general requirements of the EPA for enhanced monitoring.

7. The appropriateness of using method 25D and the resulting volatile organic concentration in the applicability and compliance determinations within the structure of the proposed regulation without discounting the non-VOC portion of the volatile organic concentration and also without eliminating low volatility compounds from test results.

8. The relevance of including in the NSPS an alternative percent reduction compliance option for treatment processes that is based on the fraction removed by the design steam stripper for the individually speciated VOC.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by the EPA, it may be made available to the public without further notice to the commenter.

V. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed rule in accordance with section 307(d)(5) of the Act. Persons wishing to make an oral presentation on the proposed NSPS for SOCMI Wastewater should contact the EPA (see **FOR FURTHER INFORMATION CONTACT**). Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section (see **ADDRESSES**), and should refer to Docket No. A–94–32. A verbatim transcript of the hearing and any written statements will be available for public inspection and copying during normal working hours at the EPA's Air Docket Section (see **ADDRESSES**).

B. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a regulation is "significant" and therefore subject to review by the Office of Management and Budget (OMB), 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.

This action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

C. Compliance With Regulatory Flexibility Act

Under section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), federal agencies are required to assess the economic impact of federal regulations on small entities. The Act specifically requires the completion of a Regulatory flexibility Analysis in those instances where small business impacts are possible. Because the impact of the proposed rule on all entities is likely to be insignificant in terms of changes in industry output, changes in expansion plans, and employment loss, it is reasonable to conclude that small entities, regardless of their number, are not significantly affected. Therefore, because these standards impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The information collection requirements for this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1697.01), and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136), U.S.

Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–2740.

The public recordkeeping and reporting annual burden for this collection of information is estimated to average 13 hours per response for reporting and 203 hours per respondent for recordkeeping. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M Street, SW.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Responses to any OMB or public comments on the information collection requirements contained in this proposal will accompany the final rule.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compounds.

Statutory Authority: The statutory authority for this proposal is provided by sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended; 42. U.S.C., 7401, 7411, 7414, 7416, and 7601.

Dated: August 31, 1994.

Jonathan Z. Cannon,

Acting Administrator.

[FR Doc. 94–22133 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 403

RIN 1006–AA30

Revenues Management

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule governs the collection and disposition of revenues generated by incidental use of Reclamation projects or project lands. It is being promulgated so that the water districts have access to the legal requirements that Reclamation applies in crediting revenues to the district.

DATES: Written comments on this proposed rule must be received on or before November 14, 1994.

ADDRESSES: Written comments on this proposed rule are to be submitted to Donald R. Glaser, Director, Program Analysis Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007.

FOR FURTHER INFORMATION CONTACT: Ms. Jaralyn Beek, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, D–5610, P.O. Box 25007, Denver, Colorado, 80225–0007, telephone (303) 236–1061, extension 227.

SUPPLEMENTARY INFORMATION:

A. Background

The 1902 passage of the Reclamation Act, (43 U.S.C. 391, *et seq.*) provided for the creation of the Reclamation fund (a fund within the U.S. Treasury) to be used to finance water projects in the arid west. These water projects were to be constructed on a reimbursable basis with the water users repaying the funds advanced from the Reclamation fund, without interest.

The early Reclamation projects were for irrigation only, and the irrigators were responsible for the repayment of all costs associated with these projects. Intending to recover the costs of construction projects as quickly as possible, Congress set the time frame for the repayment of funds by the water users in this initial period at 10 years. This responsibility, and the original repayment time frame of 10 years, proved to be a difficult and significant burden on the water users. In 1914, this term was extended to 20 years by Section 2 of the Reclamation Extension Act of August 13, 1914 (43 U.S.C. 475).

Originally, the funds that made up the Reclamation fund were from revenues generated by the sale of public lands (see Section 1 of the Reclamation Act of 1902.) It soon became apparent that this source of revenue was not sufficient to cover the costs of constructing water projects. This was addressed in a variety of statutes, one of which was the Sundry Civil Expenses Appropriations Act for 1920 (43 U.S.C. 394). This act forms the basis for the allocation of lease revenues by requiring that revenues generated from the leasing of withdrawn Reclamation lands would be a credit to the Reclamation fund.

The 1920's saw the agriculture industry experiencing serious economic difficulties that further affected the water users' ability to meet their contractual obligations to the United States. Responding to these difficulties, Congress enacted the Fact Finders Act of 1924. Section 4, Subsection I of the Fact Finders Act created an entitlement program that allowed the direct crediting of certain revenues to the water users. Providing the water users assumed responsibility for the operation and maintenance of the project, the revenues from certain activities conducted on Federal lands would be used toward relieving the water users of their yearly payment on the construction costs. The revenues were restricted to those from project power plants, leasing of project lands for grazing and farms, and the sale or use of townsite lots. These revenues were to be applied as a direct or front-end credit: (1) To the water users' annual construction charges; (2) to their annual project operation and maintenance expenses; and (3) as directed by the water users (43 U.S.C. 501). Revenues were required to be credited to construction costs until all obligations to the United States have been repaid.

Additional relief was provided when the Congress approved The Omnibus Adjustment Act of May 25, 1926, that allowed the Secretary to extend the crediting provisions of Subsection I to water districts in identified projects without requiring them to assume responsibility for operation and maintenance of the project. Section 45 of the Omnibus Adjustment Act also allowed the Secretary of the Interior to amend existing water-rights contracts, at the request of the water district, to extend the repayment period to 40 years (43 U.S.C. 423d).

The Congress did not, in its enactment of Subsection I, repeal prior revenue specific statutes, nor did it indicate that the revenue disposition requirements reflected in Subsection I would extend to revenues derived from sources not identified. For example, the revenue disposition requirements of the Act for the Sale of Surplus Acquired Lands of February 2, 1911, provided for the revenues from the sale of such lands to be a "credit to the project" rather than a credit to the water users (43 U.S.C. 374).

Subsection J of the Fact Finders Act (43 U.S.C. 526) also required the revenues generated by the sale of surplus water under the Warren Act (43 U.S.C. 523) to be deposited as a credit to the project. Therefore, the disposition requirements of Subsection I were restricted to the revenues generated from the uses specified in that subsection.

On May 9, 1938, Congress, with the passage of the Hayden-O'Mahoney Amendment to the Interior Department Appropriation Act of 1939, altered revenue crediting requirements by

providing that all of the revenues generated in connection with any irrigation project, including the incidental power features, would thereafter be a credit to the Reclamation fund. This provision excepted those cases in which law or existing contract provisions provided for a different use of these revenues, such as reflected in the passage of legislation authorizing the establishment of special accounts, specific revenue crediting directions, and/or revolving funds that govern the management of revenues from specific projects. Additionally, the provision provided that when construction costs of the project that were allocated to power had been repaid and the revenues from the sale of power were no longer required to meet contractual obligations to the United States, the net revenues from the sale of power would be credited to the Treasury of the United States as miscellaneous receipts.

Thus, the Hayden-O'Mahoney Amendment protected existing contracts with valid direct revenue crediting provisions, but removed the opportunity for future Subsection I application. The sources of the revenues covered by the Hayden-O'Mahoney Amendment are all inclusive as indicated by the language of the provision (43 U.S.C. 392a).

It should be noted that during the years that the Fact Finders Act provisions were available, Reclamation projects started to become multi-purpose in scope. Due to this evolution from single purpose (irrigation) to multi-purpose (municipal and industrial, irrigation, power, flood control, etc.), the focus of project repayment no longer rested entirely with the irrigators. The repayment of project construction was now allocated among the various water users; municipal and industrial users and power facilities, as well as the irrigators. To further disperse the repayment responsibilities, Congress deemed certain purposes, such as flood control, to be in the public's best interest and as such made them nonreimbursable by the project beneficiaries.

The passage of the Reclamation Project Act of 1939 provided the next major impact on the repayment of Reclamation projects. Specifically, Sections 9 (c), (d)(3) and (e) introduced: (1) The 40-year repayment schedule as standard rather than on the "as requested" basis of the 1926 Act; and (2) the concept of "ability to pay" (43 U.S.C. 485).

The concept of "ability to pay" allowed the revenues generated from approved project purposes, such as power, to be used to help repay the portion of the construction cost allocated to irrigation. This plan is implemented by assessing the financial resources of the water users and assigning to them responsibility to repay that portion of the construction costs allocated to irrigation on the basis of their ability to pay. The remainder of the construction cost allocated to irrigation was assigned to other project users. In this way the legal requirement for a full return of the project costs would be met. For example, power revenues in excess of the amount needed to repay the power component of project construction may be used to make up the difference between the amount the irrigators were able to pay and the costs allocated to the irrigation purpose.

By introducing "ability to pay" Congress provided assistance to the irrigators that did not involve using revenues derived from Federal lands as a direct credit to the water users. Thus, while the direct crediting aspects of Subsection I of the Fact Finders Act of 1924 were removed by the enactment of the Hayden-O'Mahoney Amendment of the Interior Department Appropriations Act, Fiscal Year 1939, which directed that all revenues would be a credit to the Reclamation fund, Congress did not abandon the needs of the irrigators. Indeed, the water users benefitted from the introduction of the concept of "ability to pay" in the Reclamation Project Act of 1939.

There are many statutes that authorize the Secretary of the Interior to enter into specific agreements for the incidental use of Reclamation projects and project lands. These activities may take place on both withdrawn public domain lands and on lands acquired for Reclamation projects either by purchase, exchange, or condemnation. In addition, activities may be authorized for the use of project facilities or may address the sale or disposal of water. Generally those statutes detailed the specific manner in which revenues generated by these incidental uses were to be distributed. The revenues are funds of the United States and, as required by the U. S. Constitution, cannot be expended or credited other than as Congress directs. In those instances where Congress has not provided specific crediting criteria, Reclamation has adopted the manner of revenues crediting specified for other activities from authorized use of Reclamation lands. Examples of the types of uses on Reclamation projects and project lands include:

(1) *Leasing of minerals*—The Mineral Leasing Act of 1920, as amended, (30 U.S.C. 181, et seq.), and the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351, et seq.), authorized the Secretary of the Interior to engage in the leasing and extraction of minerals, i.e., oil, gas, oil shale, gilsonite, sodium, phosphate, potassium, sulphur, and asphalt either on lands (specifically the mineral estates) in the public domain, or on lands acquired for a specific project and administered by Reclamation. (Jurisdiction over leasing activities does not rest with Reclamation).

(2) *Mineral leases (geothermal steam)*—The Geothermal Steam Act of 1970 (30 U.S.C. 1001, et seq.) authorized the United States to issue leases for geothermal steam on both public domain and on acquired Federal lands. (Jurisdiction over leasing activities does not rest with Reclamation).

(3) *Recreation/concession agreements*—The Land and Water Conservation Act of 1965 (Pub. L. 88–578); the Federal Water Project Recreation Act of 1965 (Pub. L. 89–72), as amended by the Water Resources Development Act of 1974 (Pub. L. 94–251); and the Reclamation Projects Authorization and Adjustment Act of 1992 (Title 28, Pub. L. 102–575), provide for the charging and collection of fees for public recreational uses of the land and water under the jurisdiction of Reclamation.

(4) *Sale of products and rights-of-use*—Section 10 of the Reclamation Project Act of 1939 (43 U.S.C. 387) grants authority to the Secretary of the Interior to permit the removal of sand, gravel, and certain other types of mineral materials and building materials, including the sale of timber, and to grant leases, licenses, easements, and rights-of-way on lands either withdrawn or acquired by the Government. This authority was valid only so long as the granting of the rights-of-use was not incompatible with the purposes for which the lands were designated.

(5) *Rights-of-way authorized by Mineral Leasing Act of 1920—The Mineral Leasing Act of 1920* (30 U.S.C. 181, et seq.) authorized the granting of rights-of-way for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced to a common collection point, a refiner, or to the point of sale.

(6) *Sale of townsites*—The Townsites and Power Development Act of April 16, 1906 (43 U.S.C. 561) authorized the withdrawal of lands from public entry to be used for the purpose of townsite lots in conjunction with irrigation projects (up to 160 acres). The lands were then surveyed, subdivided and sold by Reclamation for townsite lots (43 U.S.C. 562).

(7) *Sale of land*—The Bureau of Reclamation has authority to sell land

that is under its jurisdiction in several different statutes:

(a) The Sale of Surplus Acquired Lands Act of February 2, 1911 (43 U.S.C. 374) authorizes the sale of lands acquired under the provisions of the Reclamation Act that are no longer needed for the purpose for which the lands were acquired.

(b) The Sale of Surplus Improved Public Lands Act of May 20, 1920 (43 U.S.C. 375) authorizes the sale of withdrawn public domain lands that were improved at the expense of the project for which the lands were withdrawn.

(c) The Disposal of Small Tracts Act of March 31, 1950 (43 U.S.C. 375b) authorizes the sale of public domain lands withdrawn for the construction of a Reclamation project that are in tracts too small to qualify as farm units.

B. Methods of Disbursement

Revenues disposition statutes governing Reclamation projects generally cover four primary methods of crediting. These methods are: (1) Front-end or direct credit; (2) credit to the project or tail-end credit; (3) general credit to the Reclamation fund; and (4) general credit to revolving funds or special accounts authorized by Congress.

(1) Revenues that are to be credited as a direct or front-end credit are credited to the reimbursable construction costs of the project by satisfying all or part of the annual payment currently due from the water users. All revenues in excess of the annual construction payment are to be applied against the annual operation and maintenance expenses of the district. This relieves the water users of their current repayment obligation, in part or in its entirety, without accelerating the repayment of the total construction debt. Section 4, Subsection I of the Fact Finders Act is the only general statute with applicability at more than one Reclamation project in which front-end crediting provisions are found. These provisions were conditioned on whether the district had assumed the operation and maintenance of the project, or the Secretary of the Interior had granted this relief under the authority of the Omnibus Adjustment Act of May 25, 1926. Subsection I allowed the revenues derived from the sale of project power, the sale or use of townsite lots, and the leasing of Federal lands for the purposes of grazing and agriculture to be credited as a direct or front-end credit.

(2) Credits to the project or tail-end credits involve funds being directed to the Reclamation fund and applied to the construction obligation of the project associated with the revenues. This method of repayment accelerates the return of the construction cost of the project to the Reclamation fund.

(3) General credit to the Reclamation fund does not provide a benefit to either the project construction costs or to the districts' annual obligations. When revenues are a credit to the Reclamation fund, the funds are not targeted to be spent on a specific function or project, but are only available to be spent as directed by the laws that control the fund.

(4) General credit to special accounts or revolving funds are created by Congressional authorization and relate to specific projects or specialized activities. These accounts/revolving funds are maintained separate and apart from the Reclamation fund and are managed in accordance with the legislation that authorized their creation. Project-specific special accounts or revolving funds are: (a) The Recreation Account within the general fund of the Treasury was created by the Omnibus Adjustment Act of 1987. This account is a depository for recreation user fees or concession fees; (b) The Lower Colorado River Basin Development Fund is specific to the Central Arizona Project and was established under the authority of Section 403 of the Colorado River Basin Project Act of September 10, 1968; (c) The Columbia Basin Land Development Account was authorized under Section 6 of the Columbia Basin Project Act of March 10, 1943, and is specific to the Columbia Basin Project; (d) The Colorado River Dam Fund was authorized under the authority of Section 2 of the Boulder Canyon Project Act of December 21, 1928, and is specific to the Boulder Canyon Project; and (e) The Upper Colorado River Basin Fund was established under the authority of Section 5 of the Colorado River Storage Project Act of April 11, 1956, and is specific to the divisions of the Colorado River Storage Project.

C. Immediate Action

The Office of the Inspector General (IG) conducted an audit of Reclamation's revenues crediting practices and made recommendations for ensuring proper application of revenues received from the use of water project facilities and lands. That office also recommended, in part, that inappropriate revenues crediting be discontinued. Reclamation is currently in the process of implementing the recommendations. A review of repayment contracts and amendments, and current Reclamation practices as they pertain to collection and crediting or disposition of those revenues, has been accomplished. These rules are being published to establish guidance for the consistent application of revenues received.

Public Comment on Rules

Reclamation received a total of 10 comments in response to its notice of intent to propose rulemaking that was published in the **Federal Register** on January 3, 1994. Four of the responses received were requests for copies of future rulemaking actions; two were requests for more information about revenues crediting after a district has fulfilled its repayment obligation to the Government; four responses contained comments specific to different methods of crediting. All of the comments received have been reviewed and have been or will be addressed in either this proposed rule or in future rulemaking actions.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written suggestions or objections regarding the proposed rule to the location identified in the Addresses section of this preamble. Comments must be received on or before November 14, 1994.

Executive Order 12866

This rule is not subject to review by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This proposed rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501, et seq.

National Environmental Policy Act Compliance

The Department of the Interior has determined that this action meets the criteria for an action categorically excluded from the provisions of the National Environmental Policy Act (40 CFR 1508.4) under Departmental Manual part 516 DM 6, Appendix 9, section 9.4.A.1—"Changes in regulations or policy directives and legislative proposals where impacts are limited to economic and/or social effects."

Small Entity Flexibility Analysis

This proposed rule will not have a significant economic effect on a substantial number of small entities. This proposed rule establishes procedures for the management of revenues from activities on Reclamation projects and project lands.

Authorship

This proposed rule was prepared by the Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, Denver, Colorado.

List of Subjects in 43 CFR Part 403

Administrative practices and procedures, Reclamation revenues crediting and disposition.

Dated: August 25, 1994.

Elizabeth Ann Rieke,

Assistant Secretary—Water and Science.

For the reasons set out in the preamble, Title 43, Subtitle B, Chapter I of the Code of Federal Regulations is proposed to be amended by adding part 403 to read as follows:

PART 403—MANAGEMENT OF REVENUES GENERATED FROM BUREAU OF RECLAMATION LANDS AND ACTIVITIES

Sec.

403.10 Objective
403.20 Applicability
403.30 Definitions
403.40 Decisions and appeals

Subpart A—Revenues Crediting Criteria

403.110 Direct or front-end credit requirements
403.120 Credit to the project or tail-end credit requirements
403.130 General credit to reclamation fund
403.140 Special accounts or revolving funds
403.150 Reserved

Subpart B—[Reserved]

Authority: 5 U.S.C. 553; 43 U.S.C. 373, 391, 392, 392a, 491, 498, 501.

§ 403.10 Objective.

The objective of this rule is to ensure the proper crediting of incidental revenues in accordance with the applicable statutes.

§ 403.20 Applicability.

(a) This rule applies to revenues generated from the authorized use of Reclamation water projects and project lands, except as provided by Congress in project-specific legislation.

(b) This rule supersedes any internal Reclamation policy, guidance, or instruction that is inconsistent with this rule.

(c) If any provision of this rule or the applicability thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provisions to that person or other persons or circumstances shall not be affected thereby.

§ 403.30 Definitions.

As used in this Part:

Acquired lands refers to those lands acquired by Reclamation for Reclamation projects by purchase, exchange, or condemnation.

Collected refers to those revenues generated by activities on Reclamation projects or project lands (whether withdrawn public domain lands or lands otherwise acquired for the project).

Concession refers to any non-Federal entity operating on Reclamation lands that is remunerated by visitors for use of facilities, goods, and/or services that it provides for their recreational purposes, general enjoyment, and/or needs.

Concession fee refers to compensation received by the managing agency from a concession as defined under "concession" above.

Credit to the project or tail-end credit refers to the disposition of revenues to the Reclamation fund as a credit to the project construction costs. This method accelerates the return of construction costs to the Reclamation fund.

Direct or front-end credit refers to the disposition of revenues that allows the water users or districts to receive credit for the revenues to help satisfy their next capital obligation to the Government, for annual project operation and maintenance expenses, or as the district directs.

Easement refers to a grant of an interest to a party in the land of another for a specific use of specified land. Easements usually consist of long-term rights-of-way for public roads, telecommunication lines, transmission lines, and pipelines.

General credit refers to those revenues credited to the Reclamation fund without benefit to the water users, the districts, or the project construction costs.

Grazing means a lease granted by the Government that entitles the lessee to use project lands for the purpose of grazing livestock. Grazing lands refers to lands currently under lease for that purpose.

Lease means a contract by which the lessor (Government) gives to another (tenant or lessee), the use or possession of land, facilities, or water for a specific purpose for a specified period of time, in exchange for agreed upon payments.

License or permit refers to a grant of authority for a person or entity to use a specific piece of land for a specific purpose without gaining any interest in the land. A license or permit may allow use for: the construction and placement of small transmission lines; temporary access roads; trails; small pipelines; small power lines; removal of timber, sand and gravel, and other building material; miscellaneous agricultural uses; cabin sites; and like activities. A permit or license is used when Reclamation does not intend to grant control of the surrounding area, as is the case with an easement or lease.

Mineral materials includes, but is not limited to, common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and petrified wood.

Project means any Reclamation irrigation or multi-purpose project, including incidental features thereof, authorized by Federal Reclamation law, or constructed by the United States pursuant to such a law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary of the Interior through Reclamation.

Public domain lands refers to lands that have never left Federal ownership.

Reclamation fund means a special fund within the Treasury, established by the Congress under the Reclamation Act of June 17, 1902, as amended and supplemented. Monies from the fund are available for the investigation, construction, operation, and administration of Reclamation projects. Collections from water users for reimbursable costs of these projects are returned to the fund unless Congress has specified otherwise.

Revenues refers to monies generated from the use of lands. This excludes administrative fees, annual obligations paid in accordance with repayment contracts and water service contracts, monies generated from the marketing of surplus power, and revenues from the sale or rental of surplus water or storage and conveyance capacity.

Right-of-use refers to legal temporary uses of project lands resulting from easements, permits, licenses, leases, and rights-of-way.

Right-of-way refers to a legal right of passage over another's land, such as for roads and transmission lines.

Special use permit refers to a permit issued with or without charge to a group for activities such as the rental of picnic shelters, off-road vehicle access, river running excursions, etc.

Townsite refers to lands withdrawn from public entry to be used for the purpose of townsite lots of up to 160 acres which were surveyed, subdivided, and sold in conjunction with irrigation projects.

User fee refers to a fee charged for the use of specialized sites, facilities and equipment, or services furnished at Federal expense, including but not limited to, camping facilities, boat launching, and parking.

Water user or district refers to any individual or legal entity established under State law that has entered into a contract or is eligible to contract with the Secretary of the Interior for water. This definition includes entities that contract for construction or improvement of water storage and/or delivery facilities.

Withdrawn lands refers to those lands withdrawn from public entry and set aside for a specific public purpose or program, and contributed at no cost to the project by the United States.

§ 403.40 Decisions and appeals.

(a) Unless otherwise provided by the Secretary of the Interior, the regional director shall make any determination required under these rules and regulations.

(1) A party directly affected by such a determination may appeal in writing to the Commissioner of Reclamation within 60 days from the date of a regional director's determination. The affected party shall have a total of 90 days from the date of a regional director's determination within which to submit a supporting brief or memorandum to the Commissioner.

(2) The date of a regional director's determination will be considered to be the date shown on the letter or other document transmitting the determination.

(3) The Commissioner may extend the time for submitting a supporting brief or memorandum, provided the affected party submits a request in writing to the Commissioner and the Commissioner determines the appellant has shown good cause for such an extension.

(4) A regional director's determination will have full force and effect during the time an appeal is pending before the Commissioner, except that upon specific request and showing of good cause by the appellant in a timely notice of appeal, the Commissioner may hold a regional director's determination in abeyance until a decision has been rendered.

(b) The affected party may appeal the Commissioner's decision to the Secretary of the Interior by writing to the Director, Office of Hearings and Appeals, within 30 days from the date of mailing of the Commissioner's decision. The appeal provided in this paragraph (b) shall be governed by 43 CFR Part 4, Subpart G.

(c) Final decisions on appeals rendered by the Commissioner prior to the effective date of this section are hereby validated as final agency action and may not be further appealed administratively.

Subpart A—Revenues Crediting Criteria

§ 403.110 Direct or front-end credit requirements.

Direct or front-end credit will be applied only to those revenues cited in the Second Deficiency Appropriation Act for 1924 (Fact Finder's Act), Subsection I.

(a) *Contract provisions prior to 1938, or specific project legislation.* To be eligible to receive front-end credit, a water user or district must show that an existing contract had invoked valid Subsection I revenue provisions prior to 1938, or legislation specific to the project allowed for the direct crediting of some or all incidental revenues.

(b) *Reclamation actions regarding direct (front-end) crediting of revenues.* Effective January 1, 1994, Reclamation discontinued all unauthorized direct (front-end) crediting of revenues. Provisions in current contracts between water users or districts and Reclamation purporting to allow direct (front-end) crediting unauthorized by law are unenforceable and will not be honored. Reclamation will notify directly all water users or districts affected by this subsection and will provide information concerning rights of appeal.

§ 403.120 Credit to the project or tail-end credit requirements.

Credits to the project or tail-end credits involve funds being directed to the Reclamation fund and applied to the construction obligation of the project associated with the revenues.

(a) *Revenues that may be credited to the project or as a tail-end credit.*

(1) *Leasing of minerals from acquired lands*—mineral revenues from lands acquired for project purposes;

(2) *Mineral leases (geothermal steam) on acquired lands*—revenues from leasing of geothermal steam on lands acquired for project purposes;

(3) *Sale of timber on acquired lands*—revenues from the sale of timber from lands acquired for project purposes;

(4) *Sale of sand and gravel on acquired lands*—revenues from the sale of sand, gravel, and other mineral materials from lands acquired for project purposes; and

(5) *Rights-of-use on acquired lands*—revenues generated by temporary uses, authorized under Reclamation law, of lands acquired for project purposes.

(6) *Sale of land*—lands either withdrawn or acquired for project purposes and no longer required for the purpose for which the lands were designated may, upon the Secretary of the Interior's determination, be sold and the revenues distributed in accordance with applicable statutes. Specifically, revenues from the following types of sales will be applied as a tail-end credit to the project:

(i) Sale of withdrawn public domain lands that were improved at the expense of the project;

(ii) Sale of unimproved withdrawn public domain lands that are in tracts too small to qualify as farm units; and

(iii) Sale of acquired lands.

(b) *Reclamation actions regarding credit to the project or tail-end credit requirements.* Provisions in current contracts between water users and/or districts and Reclamation purporting to allow credits to the project or tail-end credits unauthorized by law are unenforceable and will not be honored. Reclamation will notify directly all water users or districts affected by this subsection and will provide information concerning rights of appeal.

§ 403.130 General credit to the reclamation fund.

General credit to the Reclamation fund does not provide a credit to either the project construction costs or to the districts' annual obligations. The following revenues will be credited as a general credit to the Reclamation fund:

(a) *Leasing of minerals from public domain lands*—revenues from mineral leases issued under the authority of the Mineral Leasing Act of 1920;

(b) *Rights-of-way*—revenues from rights-of-way issued under the Mineral Leasing Act of 1920;

(c) *Mineral leases (geothermal steam) from public domain lands*—revenues from leases for geothermal steam on public domain lands pursuant to the Geothermal Steam Act of 1970;

(d) *Sale of townsites*—revenues from the sale of the townsite lots on lands withdrawn from public entry;

(e) *Sale of timber from withdrawn lands*—revenues from the sale of timber on withdrawn public domain lands, or from lands "donated" to a specific project by the United States;

(f) *Sale of sand and gravel from withdrawn lands*—revenues from the sale of sand, gravel and other mineral materials on withdrawn lands; and

(g) *Rights-of-use on withdrawn lands*—revenues from the granting of rights-of-use, authorized under Reclamation law, on withdrawn lands.

§ 403.140 Special Accounts or Revolving Funds.

Revenues and fees are to credited to special accounts or revolving funds in accordance with the table below.

Revenues and fees to be credited	Account or fund
User fees (16 U.S.C. 460l.6a) and concession or franchise fees.	Recreation Account.
Revenues specific to the Central Arizona Project (except recreational user fees).	Lower Colorado River Basin Development Fund.
Revenues specific to the Boulder Canyon Project.	Colorado River Dam Fund.
Revenues from divisions of the Upper Colorado River Storage Project.	Upper Colorado River Basin Fund.
Revenues from sale, exchange, or lease of Columbia Basin Project lands.	Columbia Basin Land Development Account.

Subpart B—[Reserved]

[FR Doc. 94–22379 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–94–P

Bureau of Land Management

43 CFR Parts 2800, 2810 and 2880

RIN 1004–AC12

[WO–260–4210–02–24 1A]

Rights-of-Way, Rental Schedule for Communication Uses: Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: A proposed rule amending right-of-way regulations which would establish procedures for setting fair market rent for communications uses located on public lands was published in the **Federal Register** on Tuesday, July 12, 1994 (59 FR 35596), with a 60-day comment period expiring September 12, 1994. The comment period is being extended for 30 days in response to public request.

DATES: The period for the submission of comments is hereby extended until October 12, 1994. Comments postmarked after this date will not be considered as part of the decisionmaking process on issuance of the final rule.

ADDRESSES: Comments should be sent to Director (140), Bureau of Land Management, Room 5555, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David Cavanaugh (202) 452–7774.

Dated: September 7, 1994.

Nancy K. Hayes,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 94–22515 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR PART 1307

RIN 0970–AB04

Program Performance Standards for Head Start Programs Serving Infants, Toddlers, and Pregnant Women

AGENCY: Administration on Children, Youth and Families, Administration for Children and Families, HHS.

ACTION: Withdrawal of Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document announces the withdrawal of an NPRM published on June 19, 1990 (55 FR 24899), on Program Performance Standards for Head Start Programs Serving Infants, Toddlers and Pregnant Women. A new NPRM will be published in the near future on the same subject matter in response to recent reauthorization legislation which amended the Head Start Act.

FOR FURTHER INFORMATION CONTACT: Denice Glover, (202) 205–8552.

SUPPLEMENTARY INFORMATION: On June 19, 1990, the Administration on Children, Youth and Families published an NPRM (55 FR 24899) requesting comments from the public on proposed requirements governing the operation of Head Start programs serving infants, toddlers and pregnant women. That action was taken to provide standards so that Head Start programs which serve the target population could ensure the provision of quality service. We are hereby withdrawing that NPRM.

Recent Head Start reauthorization legislation, included in Public Law 103–252, the Human Services Amendments of 1994 (enacted, May 18, 1994) amends the Head Start Act to require, among other things, promulgation of new standards for services to infants and toddlers and their families under the Head Start program. Specifically, the Human Services Amendments of 1994 add to the Head Start Act a new section 645A on "Programs for Families with Infants and Toddlers", which includes a requirement for the development and publication of standards on the new section by December 30, 1994. In order to comply with this provision in the Act, we must develop new proposed requirements on which the public must have an opportunity to comment. Therefore, it is necessary to withdraw the previous NPRM.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: August 4, 1994.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Approved: August 3, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–22252 Filed 9–9–94; 8:45 am]

BILLING CODE 4184–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 93–22; FCC 94–200]

Interstate Information Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted this Further Notice of Proposed Rule Making to address abusive practices involving interstate information services offered through 800 numbers and pursuant to a presubscription or comparable arrangement. This action was taken to amend the Commission's existing rules to give telephone subscribers greater protection from apparently fraudulent and deceptive practices.

DATES: Comments must be submitted on or before October 10, 1994. Reply comments must be submitted on or before October 31, 1994.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making in CC Docket No. 93–22 [FCC 94–200], adopted August 2, 1994 and released August 31, 1994. The full text of the Further Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The full test of this Further Notice of

Proposed Rule Making may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800. For a document relating to this Further Notice of Proposed Rule Making, see final rules governing interstate pay-per-call services that are published elsewhere in this issue.

Summary of Notice of Proposed Rule Making

1. On August 2, 1994, the Commission adopted a Further Notice of Proposed Rule Making (FNPRM) in CC Docket No. 93–22 (released August 31, 1994; FCC 94–200) proposing changes to rules governing the provision of information services through 800 numbers and pursuant to a presubscription or comparable arrangement. The proposed amendments are intended to protect consumers from apparently fraudulent and deceptive practices associated with the provision of these services.

2. The Commission's rules governing interstate pay-per-call and information services were adopted in 1993 to implement the Telephone Disclosure and Dispute Resolution Act of 1992, 47 CFR 228 (TDDRA). The TDDRA requires that most interstate information services must be offered exclusively through telephone numbers beginning with the 900 service access code and generally prohibits the use of 800 numbers to provide information services. However, under the statute, 800 numbers may be used to provide information services pursuant to a presubscription or comparable arrangement. In an effect to control potential abuses of the presubscription provisions, the Commission explicitly defined presubscription as a contractual agreement between an information provider (IP) and a fully informed caller who agrees to purchase information services under the terms and conditions offered by the IP. Nonetheless, complaints before the Commission indicate that IPs are apparently charging telephone subscribers for calls placed to 800 numbers without ascertaining that the subscriber who is charged is, in fact, the caller who agreed to purchase the service. IPs apparently read the Automatic Number Identification (ANI) of the originating telephone line to charge the call to the subscriber to that line without regard to whether the subscriber has placed the call. The Commission expressed particular concern that such practices threaten the public perception of 800 numbers as being toll-free, a perception and reality that Congress clearly sought to maintain through the TDDRA.

3. The Commission thus proposed to adopt more stringent requirements governing the establishment of presubscription arrangements and the use of 800 numbers to provide information services. Specifically, § 64.1504 would be amended to state explicitly that the rule protects not only callers to 800 numbers, but also subscribers whose telephone lines may be used to place calls to 800 number information services. In addition, § 64.1504(b) would prohibit the use of 800 numbers to connect callers to any information service that is not provided under a presubscription or comparable arrangement.

4. The Commission also proposed to modify the definition of a presubscription or comparable arrangement contained in § 64.1501(b) to require that such arrangements be established only with a legally competent individual and executed in writing, unless charges are authorized to a credit or charge card generally accepted for the purchase of consumer goods, entertainment, travel, and lodging. Section 64.1510(b) would be amended to prohibit common carriers from billing subscribers for presubscribed information services without evidence of the written agreement. The amendment would also require common carriers to address bills assessing presubscribed information services charges only to the individual who entered into the presubscription agreement. Finally, carriers performing billing services for IPs would be required, without exception, to separate charges for presubscribed information services from charges for telecommunications services and to display for each information service charge: (1) The type of service and the service provider's name and business telephone number; (2) the telephone number actually called; (3) the amount of the charge; (4) the date and time of the call; and (5) for calls billed on a time-sensitive basis, the duration of the call.

5. The Commission recognized that these proposals would impose new burdens on both common carriers and IPs that have not engaged in the abuses described above but, nonetheless, concluded that these burdens are outweighed by the need to protect subscribers from bills for services that neither sought nor received. The Commission encouraged parties opposing the proposals to identify and quantify, with specificity, any expected burdens and to describe alternative means of protecting consumers. Finally, the Commission urged interested parties to discuss whether the proposed rules adequately protect consumers or whether other measures are necessary to guard against deception and evasion by IPs, particularly when an IP and common carrier are commonly owned or have close business ties.

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission determined that the proposals contained in the FNPRM may have some impact on small entities due to the proposed requirement the presubscription be executed in writing. Public comment is requested on the initial regulatory flexibility analysis set out in the full FNPRM. A copy of the analysis is being sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

7. This notice and comment rulemaking proceeding is non-restricted. Section 1.1206(a) of the Commission's rules, 47 CFR 1.1206(a), contains provisions governing permissible *ex parte* contacts.

Ordering Clauses

8. It Is Further Ordered, pursuant to Sections 1, 4(i), 4(j), 201–205, 228, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 228 and 405, that a Further Notice of Proposed Rule Making Is Issued, proposing amendment of 47 CFR Part 64 as set forth below.

9. It Is Further Ordered, that pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, that all interested parties may file comments on the matters discussed in this Further Notice of Proposed Rule Making and on the proposed rules contained below by October 10, 1994. Reply comments are due October 31, 1994. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

List of Subjects in 47 CFR Part 64

Communications common carrier, Computer technology, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Part 64 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply sections 201, 218, 226, 228, 48 Stat 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. In § 64.1501, the introductory text of paragraph (b) and paragraph (b)(5) are revised to read as follows:

§ 64.1501 Definitions.

* * * * *

(b) *Presubscription or comparable arrangement* means a contractual agreement, executed in writing with a legally competent individual, in which:

* * * * *

(5) Provided, however, that disclosure of a credit or charge card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if the credit or charge card is both:

(i) Generally available for the purchase of consumer goods, entertainment, travel, and lodging, and

(ii) Subject to the dispute resolution procedures of the Truth in Lending Act and Fair Credit Billing Act, as amended, 15 U.S.C. section 1601 *et seq.*

3. In § 64.1504, Paragraphs (b), (c), and (d) are revised to read as follows:

§ 64.1504 Restrictions on the use of 800 numbers.

* * * * *

(b) The calling party being connected to a pay-per-call service or any other information service that is not provided in accordance with paragraph (c) of this section;

(c) The calling party or the subscriber to the originating line being charged for information conveyed during the call except pursuant to a presubscription or comparable arrangement between the information provider and the party charged;

(d) The calling party or the subscriber to the originating line being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products.

4. In § 64.1510, paragraph (b) is revised and new paragraph (c) is added to read as follows:

§ 64.1510 Billing and collection of pay-per-call and similar service charges.

* * * * *

(b) Any common carrier offering billing and collection services to an entity providing interstate information services pursuant to a presubscription or comparable arrangement shall

(1) Bill for such services only after obtaining evidence that a presubscription or comparable arrangement has been established in accordance with § 64.1501(b) with the person being billed, and address the bill to that person;

(2) In any billing that includes charges for any interstate information services provided pursuant to a presubscription or comparable arrangement:

(i) Include a statement indicating that:

(A) Such charges are for non-communications services;

(B) Neither local nor long distance services can be disconnected for nonpayment although an information provider may employ private entities to seek to collect such charges; and

(C) Access to information services may be involuntarily blocked for failure to pay legitimate charges;

(ii) Display any charges for information services obtained pursuant to a presubscription or comparable arrangement in a part of the bill that is identified as not being related to local and long distance telephone charges; and

(iii) Specify, for each presubscribed information service charge made, the type of service; the name and business telephone number of the service provider; the amount of the charge; the telephone number actually dialed; and the date, time, and, for calls billed on a time-sensitive basis, the duration of the call.

(c) Any common carrier offering billing and collection services for interstate information services provided on a collect basis shall, to the extent possible, display billing information in the manner described in paragraph (b)(2) of this section.

[FR Doc. 94–22566 Filed 9–9–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[I.D. 081694D]

Listing Endangered and Threatened Species and Designating Critical Habitat: Initiation of Status Reviews for Pink Salmon, Chum Salmon, Sockeye Salmon, Chinook Salmon, and Sea-Run Cutthroat Trout Populations in Washington, Oregon, Idaho, and California

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

ACTION: Notice of finding; initiation of status reviews; request for comments.

SUMMARY: NMFS has received three petitions to list several populations of salmon comprising four biological species of Pacific salmon (*Oncorhynchus* spp.) from Puget Sound and the Olympic Peninsula, WA, and to designate critical habitat under the Endangered Species Act of 1973 (ESA). In accordance with section 4 of the ESA, NMFS finds that the petitions present substantial scientific information indicating that listings may be warranted. Therefore, NMFS is initiating a status review on these stocks to determine if listing is warranted. Moreover, NMFS is initiating comprehensive status reviews for populations of Pacific salmon and anadromous trout not presently undergoing status reviews in Washington, Oregon, Idaho, and California. Comprehensive, coastwide status reviews are already underway for coho salmon (*O. kisutch*) and steelhead (*O. mykiss*). Species for which comprehensive, coastwide status reviews will be initiated are: Pink salmon (*O. gorbuscha*), chum salmon (*O. keta*), sockeye salmon (*O. nerka*), chinook salmon (*O. tshawytscha*), and sea-run cutthroat trout (*O. clarki clarki*). To ensure that these status reviews are complete, NMFS is soliciting information and data regarding the petitioned stocks as well as the five species in Washington, Oregon, Idaho, and California.

DATES: Comments and information must be received by November 14, 1994.

ADDRESSES: Copies of the petitions are available from, and comments should be submitted to, Environmental and Technical Services Division, NMFS, 911 NE 11th Avenue, Room 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 230–5430; Jim Lecky, NMFS, Southwest Region, (310) 980–4015; or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the ESA allows interested persons to petition the Secretary of the Interior or the Secretary of Commerce (Secretary) to add a species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. Section 4(b)(3)(A) of the ESA requires that to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary makes a finding whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted.

Petitions Received

On March 14, 1994, the Secretary received a petition from the Professional Resource Organization—Salmon (PRO-Salmon petition) to list nine populations of salmon comprising four biological species from Puget Sound and the Olympic Peninsula, WA, and to designate critical habitat under the ESA. The nine populations are identified as indigenous, naturally spawning populations of (1) Hood Canal summer chum salmon, (2) Elwha River pink salmon, (3) Lower Dungeness River pink salmon, (4) North Fork Nooksack River spring chinook salmon, (5) South Fork Nooksack River spring chinook salmon, (6) Dungeness River spring chinook salmon, (7) Baker River sockeye salmon, (8) Discovery Bay chum salmon, and (9) White River spring chinook salmon. Subsequently, the Secretary received two additional petitions to list populations of chum salmon in Mud Bay/Eld Inlet and in Hood Canal, WA, from the Save Allison Springs Citizens' Committee (April 4, 1994) and Trout Unlimited (May 23, 1994), respectively.

The Assistant Administrator for Fisheries, NOAA, makes a finding that the petition presents substantial scientific information indicating that the petitioned action may be warranted based on the criteria specified in 50 CFR 424.14(b)(2), and based on evidence presented in the petition that the petitioned populations may qualify as "species" under the ESA in accordance with NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (56 FR 58612, November 20, 1991). Under section 4(b)(3)(A) of the ESA, this finding requires that a review of the status of the petitioned stocks be conducted to determine if the action is warranted.

Systematic Approach for Comprehensive Status Reviews

During the past 15 months, NMFS has received nine petitions requesting ESA protection for various population segments of all seven species of *Oncorhynchus* found in North America. NMFS has determined that all of these petitions, including those for the 10 Puget Sound populations covered by this document, present substantial scientific information indicating that listings may be warranted. However, there are also indications that declines in abundance (and local extinctions) of Pacific salmon and anadromous trout have occurred over broad geographic areas (e.g., Nehlsen *et al.* 1991). Furthermore, experience gained from Pacific salmon status reviews conducted by NMFS during the past 3 years has made it clear that determining the geographic boundaries and biological status of distinct population segments generally requires assessing populations and habitats occurring outside the range covered by specific petitions. For this reason, NMFS has initiated comprehensive, coastwide status reviews for two species—steelhead (58 FR 29390, May 20, 1993; 59 FR 27527, May 27, 1994) and coho salmon (58 FR 57770, October 27, 1993) in order to more accurately and efficiently determine the geographic boundaries and status of distinct population segments.

NMFS believes it is now prudent to initiate comprehensive status reviews for the remaining species of Pacific salmon and anadromous trout in Washington, Oregon, Idaho, and California. These comprehensive reviews will allow NMFS to conduct a more thorough assessment of the ecological and genetic diversity of west coast salmon populations, and to identify the geographic extent and biological status of populations representing substantial components of the overall diversity of the biological species. This systematic evaluation will allow NMFS to accomplish the major goal of the ESA—to conserve the diversity of these species and the ecosystems they inhabit.

Proposed Timeline To Complete Comprehensive Status Reviews

NMFS proposes to complete comprehensive species status reviews and publish its determination whether or not to list the species according to the following schedule:

Species	Proposed completion date
Coho Salmon	October 20, 1994.
Steelhead	February 16, 1995.
Pink Salmon	June 1, 1995.
Chum Salmon	July 15, 1995.
Sockeye Salmon	September 1, 1995.
Chinook Salmon	December 15, 1995.
Sea-run Cutthroat Trout	April 1, 1996.

In order for NMFS to concentrate efforts towards completion of comprehensive status reviews by the above dates, 1-year findings for the individual petitoned stocks, due in March, April, and May, 1995, may be delayed. However, NMFS will complete status reviews for the species identified in the above petitions as soon as possible and will thereafter promptly propose listings for any species that are found to warrant protection under the ESA. While findings on petitioned Puget Sound stocks could be delayed, NMFS believes that the comprehensive approach will provide a more thorough and accurate assessment of the status and risks to anadromous salmonids throughout their ranges in California, Washington, Oregon, and Idaho.

NMFS has elected to complete the status review for sea-run cutthroat trout last because existing scientific information regarding this species' life history and population status is extremely scarce. NMFS anticipates that valuable information for assessing the health of this species will be forthcoming from studies being conducted by the United States Forest Service and Oregon State University. However, due to the broad geographic scope of these studies (Alaska to northern California), it will probably be at least 1 year before information is compiled and evaluated in a manner that will facilitate NMFS' ESA determinations.

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are

made solely on the best scientific and commercial data available.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments concerning (1) whether or not any stock qualifies as a "species" under the ESA in accordance with NMFS' policy (56 FR 58612, November 20, 1991), and (2) whether or not any stock is endangered or threatened based on the above listing criteria. Specifically, NMFS is soliciting information on the petitioned stocks. In general, NMFS is soliciting information on pink, chum, sockeye, and chinook salmon and sea-run cutthroat trout in the following areas: Physical and biological features of freshwater habitat; life history patterns of juvenile and adult fish, including age structure and migration patterns; meristic, morphometric, and genetic studies; disease epizootiology; population abundance and trends in abundance over time; influence of historical and present hatchery fish releases on naturally spawning stocks; and separation of hatchery and natural salmon/trout escapement.

To facilitate the compilation of existing information, NMFS will expand its Pacific Salmon Biological Technical Committees' (PSBTC) meetings in Washington, Oregon, Idaho, and California to include discussions of all species of Pacific salmon and anadromous trout. The PSBTCs will provide NMFS with access to experts having a working knowledge of salmonid populations and will ensure that an accurate and complete administrative record is developed for each species. All meetings will be open to the public; interested parties should contact NMFS (see **ADDRESSES**) for information regarding locations and times of upcoming PSBTC meetings.

As noted above, the determination to list a species is based solely on the basis of the best available scientific and commercial information regarding a species' status without reference to possible economic or other impacts of such a determination (50 CFR 424.11(b)). Due to the broad scope of the species status reviews identified in this action, NMFS will attempt to consider information submitted after the comment period (see **DATES**). However, information must be received no later than 60 days before the proposed scheduled completion date (except for coho salmon) given in this document to allow NMFS sufficient time to review the material.

Critical Habitat

NMFS is also requesting information on areas that may qualify as critical habitat for all stocks of pink, chum, sockeye, and chinook salmon and sea-run cutthroat trout in Washington, Oregon, Idaho, and California. Areas that include the physical and biological features essential to the recovery of the species should be identified. Areas outside the present distribution should also be identified if such areas are essential to the recovery of the species. Essential features should include, but are not limited to: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring; and generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species.

For areas potentially qualifying as critical habitat, NMFS is requesting information describing (1) the activities that affect the area or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

The economic cost to be considered in the critical habitat designations under the ESA is the probable economic impact of the [critical habitat] designation upon proposed or ongoing activities (50 CFR 424.19). NMFS must consider the incremental costs specifically resulting from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

Data, information, and comments should include: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the commentor's name, address, and association, institution, or business.

References

Nehlsen *et al.*, 1991. Pacific salmon at the crossroads: stocks at risk from California, Oregon, Idaho, and Washington. Fisheries 16(2):4–21.

Dated: September 6, 1994.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–22481 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–22–P

50 CFR Parts 611 and 658

[Docket No. 940846–4246; I.D. 080194C]

RIN 0648–AF83

Foreign Fishing; Shrimp Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 7 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). This rule would increase the domestic quota for royal red shrimp harvested from the exclusive economic zone (EEZ) of the Gulf of Mexico and would eliminate the total allowable level of foreign fishing (TALFF) for royal red shrimp from that area. In addition, NMFS proposes changes to the existing regulations implementing the FMP that would clarify and conform them to current standards and enhance enforcement.

DATES: Written comments must be received by October 24, 1994.

ADDRESSES: Comments on the proposed rule must be sent to Michael E. Justen, Southeast Regional Office, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702.

Requests for copies of Amendment 7, which includes a regulatory impact review and an environmental assessment, should be sent to the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 331, 5401 West Kennedy Boulevard, Tampa, FL 33609–2486, FAX 813–225–7015.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–570–5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by regulations at 50 CFR parts 611 and 658 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Currently, the FMP specifies a maximum sustainable yield (MSY) and optimum yield (OY) for royal red shrimp of 392,000 lb (177.8 mt) and estimates the domestic annual harvest

(DAH) at 246,036 lb (111.6 mt). All weights are tail weights. As specified in section 201(d) of the Magnuson Act, the difference between OY and DAH, 145,964 lb (66.2 mt), must be set aside as TALFF. As a result, the domestic quota for royal red shrimp is 246,036 lb (111.6 mt) and the domestic fishery must be closed when it reaches that level.

Amendment 7 would increase the domestic quota of royal red shrimp from the Gulf of Mexico EEZ to 431,200 lb (195.6 mt), which is 110 percent of the current MSY. The Council considers this level of harvest to be conservative based on the present estimate of MSY. Amendment 7 explains that the data for determining MSY are sparse (limited recent catch and effort data), but that the current MSY is based upon the best available scientific information. The FMP indicates that MSY falls within a range of values between 352,000 lb and 650,000 lb, and provides a single point estimate at the lower end of this range of 392,000 lb (177.8 mt). Considering the MSY estimate, the Council believes that establishing the domestic quota at the level of MSY plus 10 percent represents a biologically conservative harvest level. Amendment 7 explains that the Council intends to monitor catch and effort data and adjust MSY and OY as appropriate.

Final Amendment 7, as received from the Council, did not contain an explicit statement of the Council's intent to increase OY to 110 percent of MSY, as is necessary to allow catch (domestic quota) at that level. To clarify the intent in this regard, the Council sent NMFS a letter verifying that its intent in Amendment 7 is to increase OY to the level that equals 110 percent of MSY. Based on the Council's clarifying letter, this rule proposes an increase in the domestic quota from the current 246,036 lb (111.6 mt) to 431,200 lb (195.6 mt) consistent with the increase in OY.

NMFS is concerned that the proposed OY for royal red shrimp is established at a level above MSY. NMFS believes that this may be inconsistent with National Standard 1 that requires conservation and management measures to prevent overfishing. Specifically, NMFS is concerned that if fishery harvests were allowed at an OY level above MSY on a continuing basis, the royal red shrimp stock may be depleted and could sustain adverse effects preventing it from producing fishery yields at the MSY level over the long term. Amendment 7 indicates that the royal red shrimp resource does not provide an annual crop as with other shrimp species, but is harvested from grounds believed to contain at least five year classes. Also, this species does not reach maturity until 3 years of age. Royal red shrimp differ from brown, white, and pink shrimp in that they are not estuarine dependent, but exist in a relatively constant environment in the deeper waters of the Gulf of Mexico (100–300 fathoms) (183–549 m). Royal red shrimp are harvested from what are believed to be at least five year classes, whereas brown, white, and pink shrimp are harvested from one or two year classes. Because of these biological characteristics, Amendment 7 indicates that royal red shrimp are more vulnerable to overfishing than other shrimp. Based on these considerations about the OY in relation to MSY and the resource characteristics, NMFS specifically invites public comments on a proposed OY greater than the MSY.

Since the current TALFF for royal red shrimp was established in 1987, there has been no foreign harvest of royal red shrimp from the Gulf of Mexico. The annual domestic harvest of royal red shrimp has varied, but closely approximated the current domestic quota in 1993, indicating to the Council that U.S. vessels have the capacity and intent to harvest OY. Accordingly, Amendment 7 would revise the estimate of DAH to equal OY, the domestic quota would equal OY, and TALFF would be zero. The OY, DAH, and TALFF for royal red shrimp in the Gulf of Mexico, as published on February 3, 1987 (52 FR 3248), would be revised to read, in metric tons, tail weights, as follows:

Species	OY	DAH	TALFF
Royal red shrimp	195.6	195.6	0

There are no governing international fisheries agreements that involve the catching of royal red shrimp in the Gulf of Mexico EEZ and, under this action, there would be neither a TALFF nor a foreign national allocation for such shrimp. Accordingly, no foreign fishing for royal red shrimp would be allowed in the Gulf of Mexico EEZ, and the provisions of 50 CFR 611.62 concerning the foreign fishery for royal red shrimp would be removed.

Additional Measures in Amendment 7

Amendment 7 would revise the definition of overfishing for royal red shrimp as exceeding OY (MSY plus ten percent) in a fishing year. Fishing is to close for the remainder of a fishing year when the OY (MSY plus ten percent) is reached. Given the lack of data to make a scientifically rigorous estimate of MSY for royal red shrimp, the Council believes that defining overfishing as exceeding OY (or exceeding MSY by more than 10 percent) in a fishing year still represents a biologically conservative level of harvest. Amendment 7 provides that: If OY is attained, the royal red shrimp fishery would be closed; if MSY is exceeded in any fishing year, NMFS would advise the Council and closely monitor the catch and effort in the fishery; and if MSY is exceeded in 2 consecutive years, the Council would convene its Stock Assessment Panel to consider the changes in catch and effort and to determine whether the MSY estimate and OY should be revised. Amendment 7 also proposes a framework measure for changing MSY and OY. Specifically, a revised MSY/OY would be effected based on a recommendation by the Council's Stock Assessment Panel, approval by the Council's Scientific and Statistical Committee, adoption by the Council, and implementation by "Notice Action." Given NMFS' concerns about the proposed royal red shrimp OY exceeding MSY, NMFS is equally concerned as to whether the revised definition of overfishing for royal red shrimp is consistent with the national standards of the Magnuson Act and other applicable law. NMFS is also concerned whether the proposed framework measure provides assurances of consideration of social and economic factors and opportunity for public comment on a proposed change to MSY or OY. Accordingly, NMFS specifically invites public comments on the revised overfishing definition and the proposed framework measure.

Amendment 7 also contains a definition of overfishing for white shrimp; procedures for revising the overfishing indices for brown, white, and pink shrimp, as required by 50 CFR part 602.11(c); and specific actions to be taken if overfishing for brown, white, pink, or royal red shrimp occurs.

These additional measures in Amendment 7 do not require implementing regulations.

Additional background and rationale for the measures discussed above are contained in Amendment 7, the availability of which was announced in the **Federal Register** on August 4, 1994 (59 FR 39724).

Additional Measures Proposed by NMFS

NMFS proposes the following changes to the existing regulations implementing the FMP that would clarify and conform them to current usage and enhance enforcement.

In § 658.1, the purpose and scope of the regulations would be restated. In § 658.2, unused definitions would be removed, the geographical extent of the

Gulf of Mexico EEZ would be clarified, titles and addresses in the definitions for "Regional Director" and "Science and Research Director" would be corrected, the definition for "shrimp" would be clarified, and the scientific name for royal red shrimp would be changed to conform to current standards of the American Fisheries Society. In § 658.3, relation to other laws would be revised. In § 658.4, explanation that a permit is not required to fish for shrimp would be restated.

In § 658.5, the requirements for reporting by vessel owners and operators and by dealers and processors would clarify that the specified information must be provided when requested. The current practice, whereby fishery reporting specialists, as designees of the Science and Research Director, collect information by interviewing owners/operators and dealers/processors would not be changed. Since these specialists are able to ascertain and record areas fished with the required specificity, the requirement that fishing areas be reported to these specialists in terms of statistical area would be removed and the definition of statistical area, including the depiction of the areas in Figure 5, would be removed. Other changes in § 658.5(b) are proposed for clarity.

In § 658.6, the requirements for vessel identification would be restated and such identification would be required on vessels fishing for rock, royal red, and seabob shrimp. In § 658.7, the prohibitions would be restated and prohibitions would be added: (1) Regarding placing material in the water or using fishing gear in a manner to obstruct fishing or damage vessels and gear and (2) on making a false statement to an authorized officer. In subpart B—Management Measures, all sections would be reordered and restated.

The closure provisions for the royal red shrimp fishery, currently at § 658.21(c), would be revised to clarify that a closure of the fishery would be effective on the date specified in the closure notice. While the effective date of a closure is usually later than the date the notice is filed with the Office of the **Federal Register**, such closure may be effective as early as that date. NMFS also proposes to clarify the provisions that apply after a closure and add a prohibition regarding illegal activities after a closure.

Two names and two positions of aids to navigation used as points to designate the Tortugas shrimp sanctuary, currently at § 658.22, would be corrected to reflect the names and positions for such aids to navigation in the U.S. Coast Guard Light List.

Closures of the Tortugas shrimp sanctuary, the area off the southwestern coast of Florida, the shrimp/stone trap separation zones off the western coast of Florida, and off the Texas coast, currently at §§ 658.22, 658.23, and 658.25, are stated in terms of "trawl fishing," "trawl gear," "fish(ing) for shrimp," and "trawl fishing," respectively. For uniformity and clarity, NMFS proposes to restate the closures, in each case prohibiting "trawling." For the closures of the Tortugas shrimp sanctuary, the area off the southwestern coast of Florida, and off the Texas coast, the change in terminology is not substantive. For the closures of the shrimp/stone crab separation zones, the change would ease a restriction, in that fishing for shrimp by traps would not be prohibited in the zones/times in which fishing for shrimp is currently prohibited. In terms of gear separation, which is the purpose of the shrimp/stone crab separation zones, fixed gear and trawling would continue to be separated.

The current regulations at § 658.23(b)(2) prohibit intentional/willful interference with fishing or obstruction or damage of a fishing vessel or fishing gear. The placement of this prohibition in the paragraph dealing with the shrimp/stone crab separation zones creates an inference that it applies only in such zones. However, the proposed and final rules that implemented the prohibition state that it was to apply "in the FCZ" (49 FR 20883, May 17, 1984; 49 FR 30713, August 1, 1984). The former FCZ (fisheries conservation zone) is now the EEZ. Because such interference, obstruction, or damage is reprehensible wherever it occurs, NMFS proposes to clarify that these acts are prohibited throughout the Gulf of Mexico EEZ. The inclusion of the phrase "with intent to" and the word "willfully" in the current language regarding these acts significantly reduces their effectiveness—proof of intent or willfulness is difficult. To enhance enforceability, NMFS proposes to remove "with intent to" and "willfully" and substitute "knowingly" in each case. Proof of a violation would then hinge on the placement or use of articles or gear that cause obstruction or damage, such placement or use being other than by accident.

The specific procedures and restrictions for creation or modification of shrimp/stone crab separation zones to prevent gear conflicts, currently at § 658.24, and the specific procedures and restrictions for adjusting the dates of the Texas closure, currently at § 658.25(b), would be removed. The specifics for the shrimp/stone crab separation zones apply to Florida regulatory agencies, the Council, and NMFS. The specifics for the Texas closure apply to the Texas Parks and Wildlife Department and NMFS. In both cases, they were approved as management measures in the FMP. However, they are not regulatory in nature; that is, they do not control the behavior of fishermen. Therefore, their inclusion in the regulations is not necessary.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of the amendment and regulations. At this time the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because possible increases in gross revenues for all Gulf of Mexico shrimp harvesters as a result of this action are expected to be less than 5 percent and capital costs of compliance are not expected to be significant. As a result, a regulatory flexibility analysis was not prepared.

This rule involves, but does not substantively change, a collection-of-information requirement subject to the Paperwork Reduction Act—namely, vessel and dealer reporting. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648-0013.

List of Subjects

50 CFR Part 611

Fisheries, Fishing, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 2, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 611 and 658 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

Appendix A to Subpart A—[Amended]

2. In appendix A to subpart A, in Table 1—Addresses, the following amendments are made:

a. The second column heading is revised to read "NMFS Science and Research Directors";

b. The entry for "Director, Southeast Region" in the first column is revised; and

c. The entry for "Director, Southeast Fisheries Center" in the second column is removed and a new entry for "Director, Southeast Fisheries Science Center" is added in its place to read as follows:

TABLE 1.—ADDRESSES

NMFS regional directors	NMFS science and research directors	U.S. Coast Guard commanders
* * *	* * *	*
Director, Southeast Region, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702; Telephone: (813) 570–5301; FAX: (813) 570–5300.	Director, Southeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 75 Virginia Beach Drive, Miami, FL 33149, Telephone: (305) 361–5761; FAX: (305) 361–4219.	* * *
* * *	* * *	* *

§ 611.62 [Removed and Reserved]

3. Section 611.62 is removed and reserved.

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

4. The authority citation for part 658 continues to read as follows:

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

5. Section 658.1 is revised to read as follows:

§ 658.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council under the Magnuson Act.

(b) This part governs conservation and management of shrimp in the Gulf of Mexico EEZ, except that §§ 658.5 and 658.21(a) also apply to shrimp in adjoining state waters.

6. Section 658.2 is revised to read as follows:

§ 658.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Gulf of Mexico EEZ means the EEZ from the intercouncil boundary between the South Atlantic and Gulf of Mexico Fishery Management Councils, as specified at 50 CFR 601.11(c), to the U.S./Mexico border.

Regional Director means the Director, Southeast Region, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702, telephone 813–570–5301; or a designee.

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305–361–5761; or a designee.

Shrimp means one or more of the following species, or a part thereof:

Brown shrimp, *Penaeus aztecus*
Pink shrimp, *Penaeus duorarum*
Rock shrimp, *Sicyonia brevirostris*
Royal red shrimp, *Pleoticus robustus*
Seabob shrimp, *Xiphopenaeus kroyeri*
White shrimp, *Penaeus setiferus*

7. In § 658.3, in paragraph (a), the reference to "paragraph (b) of this section" is revised to read "paragraphs (b) and (c) of this section", and paragraph (c) is added to read as follows:

§ 658.3 Relation to other laws.

* * * * *

(c) Regulations governing the taking of endangered and threatened marine mammals and sea turtles appear at 50 CFR parts 222 and 227.

8. Section 658.4 is revised to read as follows:

§ 658.4 Permits and fees.

A permit is not required to fish for shrimp under this part.

9. In § 658.5, paragraph (a) introductory text, paragraph (a)(4), and paragraph (b) are revised to read as follows:

§ 658.5 Recordkeeping and reporting.

(a) *Vessel owners and operators.* The owner or operator of a vessel that fishes for shrimp in the Gulf of Mexico EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide the following information regarding any fishing trip when requested by the Science and Research Director:

* * * * *

(4) Fishing depths and locations;

* * * * *

(b) *Dealers and processors.* A person who receives shrimp by way of purchase, barter, trade, or sale from a vessel or person that fishes for shrimp in the Gulf of Mexico EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide the following information when requested by the Science and Research Director.

(1) Name and official number of the vessel from which shrimp were received or the name of the person from whom shrimp were received, if received from other than a vessel;

(2) Amount of shrimp received by species and size category for each receipt; and

(3) Exvessel value, by species and size category, for each receipt.

10. Section 658.6 is revised to read as follows:

§ 658.6 Vessel identification.

(a) *Official number.* A vessel that fishes for or possesses shrimp in the Gulf of Mexico EEZ must display its official number;

(1) On the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be

clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numerals in contrasting color to the background;

(3) At least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in length and at least 10 inches (25.4 cm) in height for all other vessels; and

(4) Permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of a vessel that fishes for or possesses shrimp in the Gulf of Mexico EEZ must;

(1) Keep the official number and color code clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material aboard obstructs the view of the official number from an enforcement vessel or aircraft.

11. Section 658.7 is revised to read as follows:

§ 658.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Falsify or fail to provide information required to be provided, as specified in § 658.5.

(b) Falsify or fail to display and maintain vessel identification, as specified in § 658.6.

(c) After a closure of the royal red shrimp fishery, retain, sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter royal red shrimp, as specified in § 658.21(b).

(d) Trawl in a closed area or during a closed season, as specified in §§ 658.23, 658.24, 658.25, or 658.26, or as may be implemented under § 658.27(b).

(e) Interfere with fishing or obstruct or damage fishing gear or the fishing vessel of another, as specified in § 658.27(a).

(f) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of shrimp.

(g) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

12. Appendix A to part 658—Figures is added and reserved.

§§ 658.22 and 658.23 [Amended]

13. Section 658.22, Figure 1, § 658.23(a), Figure 2, and § 658.23(b), Figure 3, are redesignated into Appendix A to part 658 as Figures 1, 2, and 3, respectively.

14. Subpart B of part 658 is revised to read as follows:

Subpart B—Management Measures

658.20 Fishing years.
658.21 Allowable levels of harvest.
658.22 Size limits.
658.23 Tortugas shrimp sanctuary.
658.24 Southwest Florida seasonal closure.
658.25 Shrimp/stone crab separation zones.
658.26 Texas closure.
658.27 Prevention of gear conflicts.
658.28 Specifically authorized activities.

Subpart B—Management Measures

§ 658.20 Fishing years.

The fishing year for royal red shrimp begins on January 1. The fishing year for other species of shrimp begins on May 1.

§ 658.21 Allowable levels of harvest.

(a) *Quotas.* The quota for royal red shrimp is 431,200 lb (195.6 mt), tail weight. There are no quotas for other species of shrimp.

(b) *Closures.* When the quota specified in paragraph (a) of this section is reached, or is projected to be reached, the Assistant Administrator will file a notice to that effect with the Office of the Federal Register. On and after the effective date of such notice, for the remainder of the fishing year, royal red shrimp in or from the Gulf of Mexico EEZ may not be retained, and the sale, purchase, trade, or barter, or attempted sale, purchase, trade, or barter of royal red shrimp taken from the EEZ is prohibited. The latter prohibition does not apply to trade in royal red shrimp that were harvested, landed, and sold, traded, or bartered prior to the effective date of the notice in the **Federal Register** and were held in cold storage by a dealer or processor.

(c) *State waters.* The regulations in this part do not limit the harvest of shrimp in waters landward of the Gulf of Mexico EEZ. However, harvests from waters landward of the EEZ are taken into account in the calculations of maximum sustainable yield and optimum yield.

§ 658.22 Size limits.

There are no minimum size limits for shrimp harvested in the Gulf of Mexico EEZ. White shrimp harvested in the EEZ are subject to the minimum-size landing and possession limits of Louisiana when possessed within the jurisdiction of that State.

§ 658.23 Tortugas shrimp sanctuary.

(a) The area commonly known as the "Tortugas shrimp sanctuary," off the State of Florida, is closed to trawling. The area is that part of the Gulf of Mexico EEZ shoreward of a line connecting the following points (see Appendix A of this part, Figure 1):

Point	Latitude	Longitude	Name
N	25°52.9′N.	81°37.9′W.	Coon Key Light.
F	24°50.7′N.	81°51.3′W.	
G	24°40.1′N.	82°26.7′W.	New Ground Rocks Light.
H	24°34.7′N.	82°35.2′W.	Rebecca Shoal Light.
P	24°35′N.	82°08′W.	Marquessas Keys.

(b) The provisions of paragraph (a) of this section notwithstanding;

(1) Effective from April 11 through September 30, each year, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawling: From point T at 24°47.8′N. lat., 82°01.0′W. long. to point U at 24°43.83′N. lat., 82°01.0′W. long. (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11439, to point V at 24°42.55′N. lat., 82°15.0′W. long.; thence north to point W at 24°43.6′N. lat., 82°15.0′W. long. (see Appendix A of this part, Figure 1).

(2) Effective from April 11 through July 31, each year, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawling: From point W to point V, both points as specified in paragraph (b)(1) of this section, to point G, as specified in paragraph (a) of this section (see Appendix A of this part, Figure 1).

(3) Effective from May 26 through July 31, each year, that part of the Tortugas shrimp sanctuary seaward of a line connecting the following points is open to trawling: From point F, as specified in paragraph (a) of this section, to point Q at 24°46.7′N. lat., 81°52.2′W. long. (on the line denoting the seaward limit of Florida's waters); thence along the seaward limit of Florida's waters, as shown on the current edition of NOAA

chart 11439, to point U and north to point T, both points as specified in paragraph (b)(1) of this section (see Appendix A of this part, Figure 1).

§ 658.24 Southwest Florida seasonal closure.

From January 1 to 1 hour after sunset (local time) May 20, each year, the area described in this section is closed to trawling, including trawling for live bait. The area is that part of the Gulf of Mexico EEZ shoreward of a line connecting the following points (see Appendix A of this part, Figure 2):

Point	Latitude	Longitude	Name
B	26°16′N.	81°58.5′W.	
C	26°00′N.	82°04′W.	
D	25°09′N.	81°47.6′W.	
E	24°54.5′N.	81°50.5′W.	
M	24°41.9′N.	81°40.5′W.	Snipe Point.

§ 658.25 Shrimp/stone crab separation zones.

Five zones are established in the Gulf of Mexico EEZ and Florida's waters off Citrus and Hernando Counties for the separation of shrimp trawling and stone crab trapping. The zones are as shown in Appendix A of this part, Figure 3. Although Zone II is entirely within Florida's waters, it is included in this paragraph and Appendix A of this part, Figure 3, for the convenience of fishermen. Restrictions that apply to Zone II and those parts of the other zones that are in Florida's waters are contained in Rule 46–38.001, Florida Administrative Code. Geographical coordinates of the points referred to in this section and shown in Appendix A of this part, Figure 3, are as follows (loran readings are unofficial and are included only for the convenience of fishermen):

Point	North latitude	West longitude	Loran chain 7980			
			W	X	Y	Z
A	28°59′30″	82°45′36″	14416.5	31409.4	45259.1	62895.3
B	28°59′30″	83°00′10″	14396.0	31386.3	45376.8	63000.0
C	28°26′01″	82°59′47″	14301.5	31205.9	45103.2	63000.0
D	28°26′01″	82°56′54″	14307.0	31212.2	45080.0	62981.3
E	28°41′39″	82°55′25″	14353.7	31300.2	45193.9	62970.0
F	28°41′39″	82°56′09″	14352.4	31298.6	45199.4	62975.0
G	28°48′56″	82°56′19″	14372.6	31337.2	45260.0	62975.0
H	28°53′51″	82°51′19″	14393.9	31371.8	45260.0	62938.7
I	28°54′43″	82°44′52″	(1)	(1)	(1)	(1)
J	28°51′09″	82°44′00″	(2)	(2)	(2)	(2)
K	28°50′59″	82°54′16″	14381.6	31351.8	45260.0	62960.0
L	28°41′39″	82°53′56″	14356.2	31303.0	45181.7	62960.0
M	28°41′39″	82°38′46″	(3)	(3)	(3)	(3)
N	28°41′39″	82°53′12″	14357.4	31304.4	45176.0	62955.0
O	28°30′51″	82°55′11″	14323.7	31242.4	45104.9	62970.0
P	28°40′00″	82°53′08″	14352.9	31295.7	45161.8	62955.0
Q	28°40′00″	82°47′58″	14361.3	31305.4	45120.0	62920.0
R	28°35′14″	82°47′47″	14348.6	31280.6	45080.0	62920.0
S	28°30′51″	82°52′55″	14327.7	31247.0	45086.6	62955.0
T	28°27′46″	82°55′09″	14315.2	31225.8	45080.0	62970.0
U	28°30′51″	82°52′09″	14329.1	31248.6	45080.0	62949.9

[1] Crystal River Entrance Light 1A.
[2] Long Pt. (southwest tip).
[3] Shoreline.

(a) *Zone I* is enclosed by rhumb lines connecting, in order, points A, B, C, D, T, E, F, G, H, I, and J, plus the shoreline between points A and J. It is unlawful to trawl in that part of Zone I that is in the EEZ during the period October 5 through May 20, each year.

(b) *Zone II* is enclosed by rhumb lines connecting, in order, points J, I, H, K, L, and M, plus the shoreline between points J and M.

(c) *Zone III* is enclosed by rhumb lines connecting, in order, points P, Q, R, U, S, and P. It is unlawful to trawl in that part of Zone III that is in the EEZ during the period October 5 through May 20, each year.

(d) *Zone IV* is enclosed by rhumb lines connecting, in order, points E, N, S, O, and E.

(1) It is unlawful to place a stone crab trap in that part of Zone IV that is in the EEZ during the periods October 5 through December 1, and April 2 through May 20, each year.

(2) It is unlawful to trawl in that part of Zone IV that is in the EEZ during the period December 2 through April 1, each year.

(e) *Zone V* is enclosed by rhumb lines connecting, in order, points F, G, K, L, and F.

(1) It is unlawful to place a stone crab trap in that part of Zone V that is in the EEZ during the periods October 5 through November 30, and March 16 through May 20, each year.

(2) It is unlawful to trawl in that part of Zone V that is in the EEZ during the period December 1 through March 15, each year.

§ 658.26 Texas closure.

(a) *Area and season restrictions.* From 30 minutes after sunset on May 15 to 30 minutes after sunset on July 15, the area described in this paragraph (a) is closed to all trawling, except that a vessel may trawl for royal red shrimp beyond the 100-fathom (183-m) depth contour. The area is that part of the Gulf of Mexico EEZ off Texas west of a line connecting point A at 29°32.1′N. lat., 93°47.7′W.

long., to point B at 26°11.4'N. lat., 92°53.0'W. long. (See Appendix A of this part, Figure 4.)

(b) *Adjustment of dates.* In accordance with the procedures and restrictions of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, the Regional Director may adjust the closing and/or opening date to provide an earlier, later, shorter, or longer closure, but the duration of the closure may not exceed 90 days or be less than 45 days. Notice of an adjustment of the closing or opening date will be published in the **Federal Register**.

§ 658.27 Prevention of gear conflicts.

(a) No person may knowingly place in the Gulf of Mexico EEZ any article, including fishing gear, that interferes with fishing or obstructs or damages fishing gear or the fishing vessel of another; or knowingly use fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

(b) In accordance with the procedures and restrictions of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, the Regional Director may modify or establish separation zones for shrimp trawling and the use of fixed gear as may be necessary and appropriate to prevent gear conflicts. Necessary prohibitions or restrictions will be published in the **Federal Register**.

§ 658.28 Specifically authorized activities.

The Regional Director may authorize, for the acquisition of information and data, activities otherwise prohibited by the regulations in this part.

[FR Doc. 94–22342 Filed 9-7-94; 1:41 pm]
BILLING CODE 3510–22–P

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50 CFR Part 677

[Docket No. 940839–4239; I.D. 081294A]

North Pacific Fisheries Research Plan

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

ACTION: Proposed specifications for 1995; request for comments.

SUMMARY: NMFS proposes North Pacific Fisheries Research Plan (Research Plan) specifications for calendar year 1995. The specifications would be used to calculate fees to be paid by participants in the Gulf of Alaska (GOA) groundfish fishery, Bering Sea and Aleutian Islands (BSAI) management area groundfish fishery, BSAI area king and Tanner crab fisheries, and Pacific halibut fishery in convention waters off Alaska (Research Plan fisheries) to fund an observer program to promote management, conservation, and scientific understanding of groundfish, halibut, and crab resources off Alaska.

DATES: Comments must be received by October 12, 1994.

ADDRESSES: Comments should be sent to, and additional information can be obtained from, Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668 (Attn: Lori Gravel).

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Section 313 of the Magnuson Act, as amended by section 404 of the High Seas Driftnet Fisheries Enforcement Act, Public Law 102–582, authorizes the North Pacific Fishery Management Council (Council) to prepare, in consultation with the Secretary of Commerce (Secretary), a Research Plan for all fisheries under the Council's jurisdiction, except salmon fisheries. On September 6, 1994, NMFS published a final rule at 59 FR 46126 to implement the Research Plan. This rule requires that observers be stationed on certain fishing vessels and at U.S. fish processors participating in Research Plan fisheries, including extending these requirements to the halibut fishery off Alaska. Observers will be deployed for the purpose of collecting data necessary for the conservation, management, and scientific understanding of fisheries under the Council's authority. The Research Plan also establishes a system of fees to pay for the costs of implementing the Research Plan, beginning January 1, 1995. The fees are based on the exvessel value of retained catch from Research Plan fisheries. Additional background and rationale for measures implemented under the Research Plan are contained in the preamble of the proposed rule published May 6, 1994, and the final rule, and are not repeated here.

NMFS is publishing these proposed specifications prior to the effective date of the final rule implementing the Research Plan. This is necessary because of the requirement for public comment on proposed specifications for the fee collection program, and because the specifications must be in place before the calendar year for which they apply. It also allows affected members of the industry to be notified and for the fee collection systems to be put in place.

Annual Research Plan Specifications

Section 677.11 of the Research Plan regulations requires NMFS, after consulting with the Council, and, in the case of observer coverage levels in the crab fisheries, the State of Alaska, to publish certain proposed specifications for the upcoming calendar year in the **Federal Register** and to invite public comments. These proposed specifications include standard exvessel prices, total exvessel value, fee percentage, levels of observer coverage for Research Plan fisheries, and embarkment/disembarkment ports for observers.

NMFS prepared a report, "Establishing the Fee Percentage and Standard Ex-vessel Prices for 1995," for the Council's consideration at its June 1994 meeting. The report contains details of the derivation of these proposed specifications, including sources of information and assumptions that are not repeated here. In response to comments received from the Council and its advisory committees, the report was subsequently revised to provide a greater breakdown of exvessel prices and to reflect a revised first-year program. Copies of the revised report are available (see **ADDRESSES**).

Proposed specifications for calendar year 1995 are as follows:

1. *Standard exvessel prices.* Standard exvessel prices are used to determine the annual fee percentage for the calendar year and are the basis for calculating bimonthly fee assessments. Standard exvessel prices for species harvested in Research Plan fisheries are based on:

a. Exvessel price information by applicable season, area, gear, and processing sector for the most recent 12-month period for which data are available;

b. Factors that are expected to change exvessel prices in the upcoming calendar year; and

c. Any other relevant information that may affect expected exvessel prices during the calendar year.

For 1995, proposed standard exvessel prices of species from Research Plan fisheries, based on best available information, are as follows:

Species	Price per pound, round weight [1] ($/lb)
Halibut	1.50
Tanner Crab:	
C. bairdi	1.80
C. opilio	1.30
King Crab:	
Bristol Bay red	3.70
Adak red	4.07
Pribilof red	5.00
Norton Sound red	1.75
St. Matthew blue	3.01
Dutch Harbor brown	2.22
Adak brown	2.31

Groundfish, by area and gear	Bering Sea/ Aleutians		Gulf of Alaska regulatory areas Western/Central/Eastern			
	Other gear	Trawl gear	Other gear	Trawl gear	Other gear	Trawl gear
Arrowtooth flounder	0.020	0.020	0.020	0.020	0.020	0.020
Atka mackerel	0.200	0.200	0.200	0.200	0.200	0.200
Deepwater flatfish	.....	.....	0.154	0.112	0.112	0.090
Demersal rockfish	.....	.....	0.292	0.249	0.473	0.249
Flatfish	0.072	0.072	.....	.....	.....	.....
Flathead sole	.....	.....	0.151	0.149	0.151	0.146
Greenland turbot	0.300	0.300	.....	.....	.....	.....
Other flatfish	0.030	0.030	0.030	0.030	0.030	0.030
Other red rockfish	0.200	0.200	.....	.....	.....	.....
Other rockfish	0.200	0.200	.....	.....	.....	.....
Pacific ocean perch	0.200	0.200	0.200	0.200	0.200	0.200
Pacific cod	0.200	0.149	0.208	0.167	0.317	0.156
Pelagic rockfish	.....	.....	0.256	0.106	0.273	0.106
Pollock (A season)	0.081	0.081	0.078	0.090	0.078	0.078
Pollock (B season)	0.070	0.070	0.078	0.078	0.078	0.078
Rock sole (with roe)	0.352	0.352	.....	.....	.....	.....
Rock sole (w/o roe)	0.072	0.072	.....	.....	.....	.....
Sablefish	0.875	0.545	0.958	0.545	0.952	0.601
Shallow water flatfish	.....	.....	0.147	0.150	0.147	0.193
Shortraker/rougheye	.....	.....	0.267	0.172	0.273	0.172
Slope rockfish	.....	.....	0.275	0.104	0.263	0.104
Thornyhead rockfish	.....	.....	0.463	0.326	0.505	0.326
Yellowfin sole	0.072	0.072	.....	.....	.....	.....

[1] For halibut, dressed weight is used (headed and gutted).

Note: The PacFIN data indicate that, in the BSAI, motherships and shore-based processors paid approximately the same price for pollock during the roe season, but that motherships paid 17.4% less than shore-based plants during the non-roe season. If a separate standard exvessel price is used for at-sea processors during the non-roe season, the proposed price is $0.058. If a separate standard exvessel price is used for shore-based processors, the proposed price is $0.072.

2. *Total exvessel value.* The total exvessel value of Research Plan fisheries is calculated as the sum of the product of the standard exvessel prices established for the calendar year and projected retained catches, by species.

For 1995, proposed total exvessel values of species from Research Plan fisheries, based on best available information, are as follows:

PROJECTED 1995 RETAINED CATCH, PRICE, AND EXVESSEL VALUE BY SPECIES

Species	Retained catch (x1,000 lbs)	Price [1] ($/lb)	Exvessel value [2] (x$1,000)
Halibut	44,000	1.50	66,000
Tanner Crab:			
C. bairdi	15,200	1.80	27,360
C. opilio	100,000	1.30	130,000
King Crab:			
Bristol Bay red	13,200	3.70	48,840
Adak red	1,000	4.07	4,070
Pribilof red	2,600	5.00	13,000
Norton Sound red	300	1.75	525
St. Matthew blue	2,900	3.01	8,729
Dutch Harbor brown	1,200	2.22	2,664
Adak brown	4,100	2.31	9,471

PROJECTED 1995 RETAINED CATCH, PRICE, AND EXVESSEL VALUE BY SPECIES—Continued

Species	Retained catch (x1,000 lbs)	Price [1] ($/lb)	Exvessel value [2] (x$1,000)
Total crab	140,500	.....	[3] 242,559
Groundfish:			
Arrowtooth flounder	4,224	0.020	84
Atka mackerel	106,175	0.200	21,231
Deepwater flatfish	12,628	0.112	1,416
Demersal rockfish	1,620	0.407	659
Flatfish	19,037	0.072	1,370
Flathead sole	4,067	0.149	606
Greenland turbot	13,798	0.300	4,139
Other flatfish	17,855	0.030	536
Other red rockfish	3,641	0.200	728
Other rockfish	33,092	0.200	6,617
Pacific ocean perch	970	0.200	194
Pacific cod	356,081	0.176	62,842
Pelagic rockfish	5,896	0.116	686
Pollock (A season)	1,061,105	0.081	86,399
Pollock (B season)	1,719,046	0.071	121,497
Rock sole (w/o roe)	18,006	0.072	1,296
Rock sole (with roe)	28,399	0.352	9,995
Sablefish	52,243	0.914	47,747
Shallow water flatfish	13,685	0.150	2,052
Shortraker/rougheye	2,815	0.199	559
Slope rockfish	13,388	0.105	1,406
Thornyhead rockfish	1,803	0.389	701
Yellowfin sole	152,489	0.072	10,977
Total Groundfish	3,642,065	.....	383,737
Research Plan Fisheries Total [4] $693 million			

[1] Exvessel prices for groundfish are weighted average prices across area and gear.
[2] The product of retained catch and price does not necessarily equal the exvessel value due to rounding of retained catch and price.
[3] After $2.1 million of catch in State waters is subtracted.
[4] Total does not exactly equal sum of total groundfish, halibut, and crab due to rounding.

Note: If a BSAI pollock non-roe season price of $0.058 per pound is used for at-sea processors instead of the shore-based processor price of $0.072, total exvessel value is reduced by about $13 million. The use of a shore-based processor rock sole price of $0.072 throughout the year for rock sole deliveries to shore-based processors instead of the at-sea processor price of $0.352 during the roe rock sole fishery reduces total value by less than $0.1 million.

3. *Research Plan fee percentage.* The Research Plan fee percentage for a calendar year must equal the lesser of 2 percent of the exvessel value of retained catch in the Research Plan fisheries or the fee percentage calculated using the following equation:

Fee percentage=[100×(RRPC−FB−OF)/V]/(1−NPR),

where:

RRPC is the projection of recoverable Research Plan costs for the coming year;

FB is the projected end of the year balance of funds collected under the Research Plan;

OF is the projection of other funding for the coming year;

V is the projected exvessel value of retained catch in the Research Plan fisheries for the coming year; and

NPR is the percent (expressed as a decimal) of fee assessments that are expected to result in nonpayment.

For 1995, the best estimate of RRPC is $15.4 million. FB will be $0 for 1995; because no fees will be collected in 1994, no balance of funds at the end of 1994 will be applied against program costs in 1995. OF for 1995 is projected to be $2.6 million, consisting of $2.1 million from NMFS and $0.5 million from the Alaska Department of Fish and Game. V for 1995 is estimated to be $692.7 million, as described under item 2 above. NPR is estimated at 2.5 percent. Therefore, applying the formula above, the calculated fee percentage would be:

[100×($15.4 million−$0−$2.6 million)/$692.7 million]/(1−.025) = 1.9 percent.

Because the calculated fee is less than the maximum assessable fee, the proposed fee percentage for 1995 is 1.9 percent.

4. *Observer coverage.* For 1995, observer coverage levels in Research Plan fisheries are unchanged from 1994 and are set out at § 677.10(a).

5. *Embarkment/disembarkment ports.* For 1995, observer contractors and vessels required to have observer coverage arrange for observer embarkment and disembarkment. NMFS is not involved in this arrangement. Therefore, specification of embarkment/disembarkment ports for 1995 is not necessary.

Final Research Plan Specifications

NMFS will consider comments received on these proposed specifications and, after consulting with the Council, will publish final specifications in the **Federal Register**.

Classification

This action is proposed to be taken under the authority of 50 CFR 677.11, as published at 59 FR 46126, September 6, 1994, and is exempt from review under E.O. 12866.

Dated: September 6, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94–22478 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 59, No. 175
Monday, September 12, 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

Environmental Impact Statement, Port Houghton/Cape Fanshaw Timber Sale(s), Tongass National Forest, Stikine and Chatham Areas, Petersburg and Sitka, AK

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Stikine and Chatham Areas of the USDA Forest Service propose to harvest 123 million board feet (MMBF) of timber volume (net sawlog) from the Port Houghton/Cape Fanshaw area of the Tongass National Forest, and to construct 84.2 miles of road and one log transfer facility (LTF). The timber would be harvested from 94 units covering 5,860 acres. The harvest units were selected from a unit pool of 186 units containing a total of 225 MMBF of timber volume (net sawlog) over 10,904 acres. The roads associated with the proposed action were selected from a road pool of 174 miles for the entire project area. The proposed action would offer timber in one or more sales. (A map of the unit pool, the proposed action, and roads is available from the address provided.)

The project area includes Value Comparison Units (VCUs) 79 through 89 on the Mainland in southeast Alaska, encompassing approximately 193,000 acres. VCUs 80–89 have been allocated by the Tongass Land Management Plan to Land Use Designation (LUD) IV, emphasizing primarily commodity or market resources. VCU 79 has been allocated to LUD III, emphasizing a variety of uses, both commodity and amenity, to provide the greatest combination of benefits.

The purpose of this project is to provide 110 to 125 MMBF of timber for harvest according to direction described in the Tongass Land Management Plan, to meet the Federal obligation to make timber volume available for harvest by timber operators, and to improve the timber productivity of the project area by harvesting mature stands of timber and replacing them with faster growing stands of second-growth timber.

The decision to be made is whether to make timber available for harvest and improve timber productivity in the Port Houghton/Cape Fanshaw Project area while also providing a combination of recreation, fish, water, and wildlife for the resource uses of society now and into the future. This decision will be made by Abigail R. Kimbell, Forest Supervisor of the Stikine Area.

If timber is made available for harvest, the Forest Supervisor will also decide (a) the volume of timber to make available, (b) the location and design of the timber harvest units and log transfer facilities, (c) the location and design of associated mainline and local road corridors, and (d) appropriate mitigation measures for all alternatives in the project area.

EFFECTIVE DATE: Public scoping will begin in September 1994 and will continue over the life of the analysis. The Draft EIS is scheduled for publication in June 1995 and the Final EIS in January 1996. Written comments concerning this proposed action should be received within 30 days of the date of publication of this Notice in the **Federal Register**, estimated to be September 16th.

FOR FURTHER INFORMATION CONTACT: The Port Houghton/Cape Fanshaw analysis is being conducted by Parametrix, Inc. under contract to the Stikine and Chatham Areas of the Tongass National Forest. Questions and written comments and suggestions concerning the analysis should be sent to Pamela Gunther, Team Leader, Parametrix Inc., 5808 Lake Washington Blvd N.E., Kirkland, WA 98033, phone (206) 822–8880, fax (206) 889–8808.

SUPPLEMENTARY INFORMATION: A public scoping letter will be sent to all persons indicating an interest in the project by responding to the Stikine Area Project Schedule or Chatham Area Schedule of Proposed Actions, or who otherwise notify the Stikine or Chatham Areas that they are interested in the Port Houghton/Cape Fanshaw Timber Harvest project. Public scoping meetings will be scheduled during the last week in September in the communities of Wrangell, Kake, Petersburg, Juneau, and Hobart Bay.

The EIS will evaluate a number of timber harvest alternatives ranging from a no-action alternative to harvesting 110 to 125 MMBF of timber. Action-alternatives are likely to vary according to volume of timber (110–125 MMBF), the amount and location of roads, the number and location of log transfer facilities, the number and location of harvest units, and the silvicultural methods applied to each unit. Each action alternative will be designed by selecting units and roads from the unit pool and road pool, and each alternative will fulfill the purpose and need for the project and will respond to at least one of the significant issues.

Preliminary issues include:

1. Soils: Portions of the project area are mapped as rough mountainous land characterized by steep rocky slopes, icefields, and glaciers. High soil hazard classes also occur in the project area. How will the alternatives be designed to protect the area from landslides? What effect would each alternative have on the soil resources?

2. Fisheries/Watershed: Harvest operations could affect water quality, sedimentation, and fish passage. Mass-wasting of sediments from cut-and-fill slopes can deliver sediment to streams. Harvest adjacent to streams without fish may increase water temperature in waters what would ultimately drain to Class I and Class II streams. How will fish streams be protected from direct and indirect impacts caused by harvesting timber and building roads? What effect would each alternative have on fisheries and watershed?

3. Wildlife: Several goshawks and their nests have been located in the project area. Mountain goats inhabit the rocky mountain terrain. Marbled murrelets are well distributed in the project area and use the Sandborn Canal and Port Houghton Salt Chuck for foraging. How will these and other wildlife be protected? How will travel corridors among high-intensity use areas be preserved? What effect will each alternative have on wildlife?

4. Subsistence: A preliminary review of subsistence use in the Port Houghton/Cape Fanshaw project area has identified eight subsistence resources (deer, harbor seals, salmon, fin fish, waterfowl, marine invertebrates, mountain goat, and mammal trapping)

by three different communities (Petersburg, Wrangell, and Kake). How will these resources be protected either from loss of the resource or overuse due to increased accessibility that may occur from road construction? To what extend will each alternative affect subsistence resources and use within the project area?

5. Recreation: Recreation sites at the project area occur as natural, unmodified environments with little evidence of human activity. Most of these sites occur along shoreline areas and include boating, camping, hunting, and fishing. What affect would the change from primitive to semi-primitive roaded recreational opportunity have on existing and future uses? How will the alternatives address future recreational uses while preserving the type of opportunities used historically?

6. Cultural Resources: A total of 47 cultural sites have been documented at the Port Houghton project area through field investigations conducted this summer. One site consists of well preserved artifacts that date as early as 10,000 years old. How will these resources be protected from timber harvest, road construction, and potential vandalism? What effect would each alternative have on the cultural resources in the project area?

7. Visual Resources: Timber management activities will alter the appearance and perceived visual quality of the project area and vicinity. What type of mitigation measures will be developed to reduce impacts to the visual quality of the area? What effect will the alternatives have on the visual quality?

PERMITS: To proceed with the timber harvest as proposed, various permits must be obtained from other agencies. Applications for these permits would take place after the Final EIS is filed with the Environmental Protection Agency (EPA) and not sooner than 30 days following publication of this decision in the Petersburg Pilot newspaper, published in Petersburg, Alaska.

Both the EPA and the U.S. Army Corps of Engineers have been requested to participate as cooperating agencies in preparation of the EIS. The agencies and their responsibilities are as follows: U.S. Army Corps of Engineers has the responsibility for approval of discharge of dredged or fill materials into the waters of the United States (Section 404 of the Clean Water Act), and approval of construction of structures or work in navigable waters of the United States (Section 10 of the Rivers and Harbors Act of 1899); EPA has responsibility for the National Pollutant Discharge Elimination System Review (Section 402 of the Clean Water Act). Other agencies which will participate are as follows: State of Alaska, Department of Natural Resources has responsibility for authorization for occupancy and use of tidelands and submerged lands; State of Alaska, Department of Environmental Conservation has responsibility for the Solid Waste Disposal Permit (Section 402 of Clean Water Act) and the Certificate of Reasonable Assurance (Section 404 of Clean Water Act); U.S. Coast Guard has responsibility for Coast Guard Bridge Permits (in accordance with the General Bridge Act of 1946) required for all structures constructed within the tidal influence zone.

PUBLIC COMMENT: Interested parties are invited to comment. The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency 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 it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 [1978]). Also, environmental objections that could have been raised at the Draft EIS stage may be waived if not raised until after the completion of the final environmental impact statement 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 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 environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement 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 Environment Policy Act in 40 CFR 1503.3 while addressing these points.

The responsible official for the decision is Abigail R. Kimbell, Forest Supervisor of the Stikine Area, Tongass National Forest, Alaska Region, Petersburg, Alaska.

Dated: September 2, 1994.

Abigail R. Kimbell,

Forest Supervisor.

[FR Doc. 94–22383 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Bear Butte Water Users Association Pipeline Project

AGENCY: Soil Conservation Service.

ACTION: Notice of a Finding of No Significant Impact (FONSI).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Bear Butte Water Users Association pipeline project in Meade County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney D. Baumberger, Acting State Conservationist, USDA, Soil Conservation Service, Federal Building, Room 203, 200 4th Street SW, Huron, South Dakota, 57350–2475, telephone (605) 353–1783.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rodney D. Baumberger, Acting State Conservationist, has determined that the preparation and review of an Environmental Impact Statement is not needed for this project.

The project concerns a plan for the installation of a rural pipeline to provide water of good quality and suitable quantity to five ranchers along Spring Creek, near Bear Butte in Meade County, South Dakota. The water will be used for livestock and domestic purposes.

A Memorandum of Agreement developed by the Soil Conservation Service with the National Advisory Council on Historic Preservation identifies the steps that will be taken to address the concerns identified by Indian Tribes who use Bear Butte for religious and cultural purposes.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, Indian Tribes, and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single-copy requests at the above address. The total Environmental Assessment is on file and may be reviewed by contacting Rodney D. Baumberger, Acting State Conservationist. No administrative action on implementation of the project will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10901, Resource Conservation and Development Program. Executive Order 12372 regarding inter-government review of federal and federally-assisted programs and projects is applicable)

August 23, 1994.

Leroy Holtsclaw,

Assistant State Conservationist.

[FR Doc. 94–22384 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–16–M

Middle Tangipahoa Watershed Revision No. 1, Tangipahoa Parish, LA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Middle Tangipahoa Watershed, Tangipahoa Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a water quality improvement plan for the Tangipahoa River, a scenic stream, located in Tangipahoa Parish, Louisiana. The planned works of improvement include installing waste management systems on approximately 36 dairies.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Dated: August 30, 1994.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 94–22385 Filed 9–9–94; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications: Alaska

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: In the issue of Friday, August 19, 1994, make the following correction: On page 42815, the Metropolitan Area is listed as Anchorage. The correct Metropolitan Area is the State of Alaska. If you have any questions, contact Steven Saho at (415) 744–3001.

Dated: September 7, 1994.

Donald L. Powers,

Federal Register Liaison Officer.

[FR Doc. 94–22513 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–21–P–M

Business Development Center Applications: Phoenix, AZ

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Phoenix, Arizona Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Phoenix, Arizona Metropolitan Area. The award number of the MBDC will be 09–10–95006–01.

DATES: The closing date for applications is *October 17, 1994.* Applications must be post-marked on or before *October 17, 1994.* A pre-application conference will be held on October 3, 1994, at 10:00 a.m., at the Phoenix City Hall, Conference Room B, 1st Floor, 200 West Washington Street, Phoenix, Arizona 85003.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, San Francisco Regional Office, 221 Main Street, Room 1280, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Steve Saho at (415) 744–3001.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance of the first budget period (12 months) from February 1, 1995 to January 31, 1996, is estimated at $222,196. The total Federal amount is $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share 15% $33,329 in non-federal (cost-sharing) contributions for a total project cost of $222,196. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general

and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (25 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award. Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center
(Catalog of Federal Domestic Assistance)

Dated: August 31, 1994.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 94–22512 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[I.D. 090694B]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Coastal Migratory Committee (with Atlantic States Marine Fisheries Commission (ASMFC) Bluefish Board), Demersal Species Committee (with ASMFC Summer Flounder Board), Large Pelagics Committee, and Enforcement Committee will hold public meetings on September 27–29, 1994, at the Radisson Hotel Philadelphia Airport, 500 Stevens Drive, Philadelphia, PA 19113, telephone: (215) 521–5900.

On September 27, the Coastal Migratory and Demersal Species Committees will meet from 10:00 a.m. until 5:00 p.m. On September 28, the full Council will begin its meeting at 8:00 a.m. with the election of officers and will adjourn at 3:00 p.m. The Large Pelagics and Enforcement Committees will meet from 3:00 p.m. until 5:00 p.m. On September 29, the Council will meet from 8:00 a.m. until approximately noon.

The following topics will be discussed:

(1) Bluefish management recommendations for 1995;

(2) Summer flounder management recommendations for 1995;

(3) Swordfish scoping document;

(4) International Commission for the Conservation of Atlantic Tunas peer review report;

(5) Enforcement Committee program;

(6) Election of new officers;

(7) Surf clam/ocean quahog management recommendations for 1995 (per Committee meeting held on September 12, 1994 (59 FR 42819, August 19, 1994)); and

(8) Other fishery management matters.

The Council meeting may be lengthened or shortened based on the progress of the meeting. The Council may go into closed session to discuss personnel or national security matters.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: (302) 674–2331.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331, at least 5 days prior to the meeting date.

Dated: September 7, 1994.

David S. Crestin,

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

[FR Doc. 94–22479 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 081894C]

Western Pacific Fishery Management Council; Meetings

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

ACTION: Notice of change of public meeting dates.

SUMMARY: The dates for the meetings of the Western Pacific Fishery Management Council's Small Boat Pelagic Fisheries Working Group, as published August 24, 1994 (59 FR 43555), have been changed from September 28, 1994, to September 22, 1994, and from October 19, 1994, to October 13, 1994. The September 7 meeting remains unchanged. All other information as printed in the previous publication also remains unchanged.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 522–8220.

Dated: September 7, 1994.

David S. Crestin,

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

[FR Doc. 94–22480 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 083194E]

Endangered Species; Permits

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

ACTION: Notice of receipt of a request for Modification 1 to Permit 923 (P509A).

On June 29, 1994, notice was published (59 FR 33489) that Permit 923 had been issued to Robert van Dam (P509A) to take listed hawksbill sea turtles (*Eretmochelys imbricata*) and listed green sea turtles (*Chelonia mydas*) for habitat and population studies as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217-227).

Notice is hereby given that Robert van Dam has applied in due form for a modification to Permit 923 for the take of 80 additional listed hawksbill sea turtles. The permit expires on December 31, 1994.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, NMFS, 1335 East-West Hwy., Silver Spring, MD 20910–3226, within 30 days of the publication of this notice. Those individuals requesting a hearing should set out the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the Applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, 1315 East-West Hwy., Room 13229, Silver Spring, MD 20910–3226 (301–713–2322); and

Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813-893-3141); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Dated: September 6, 1994.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service

[FR Doc. 94–22378 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Conference on "Fair Use" and the National Information Infrastructure (NII)

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of first meeting of conference.

SUMMARY: The Working Group on Intellectual Property Rights of the White House Infrastructure Task Force (IITF) issued a preliminary draft of its report "Intellectual Property and the National

Information Infrastructure," on July 7, 1994. Copies of the 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, D.C. 20231, marked to the attention of Terri A. Southwick, Office of Legislative and International Affairs.

The preliminary draft, on page 134, stated that the Working Group would sponsor a conference to bring together copyright owner and user interests to develop guidelines for fair uses of copyrighted works by and in public libraries and schools. The draft further stated that anyone who wished to participate in the conference should request to do so by sending a request to Terri A. Southwick. The participants have been chosen and notified. Every effort was made to ensure that a wide diversity of opinion will be represented at the conference. Roughly equal numbers of participants were chosen from owners of copyrights, educators and librarians. Those who requested to participate but could not be accommodated due to the large number of requests are invited to attend this and all subsequent meetings. There will be an opportunity for those not chosen to participate to make or submit comments and questions. All meetings will be open to the public.

DATES: The first session of the conference will be held in Washington, D.C. on September 21, 1994. It will begin at 12:30 and last until 5:00.

ADDRESSES: The conference will be held at the Department of Commerce Auditorium, Department of Commerce, 14th Street & Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Chris Meyer or Michael O'Neil, Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Box 4, Washington, D.C. 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).

"Intellectual Property and the National Information Infrastructure: A 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.

The Working Group's concerns about the role of fair use in the NII environment were expressed in the preliminary draft. Guidelines for library and educational use of printed matter and music that were voluntarily adopted by diverse parties and set out in the house and Conference reports accompanying the 1976 Copyright Act appear not to apply to the NII environment and thus to require modification or elaboration to deal with digital works and on-line services. The initial meeting on September 21, 1994, will establish the structure through which such modifications or elaborations may be achieved.

The Working Group solicited written comments from the public on the preliminary report in a notice published at 59 FR 35912 on July 14, 1994 and gave notice of hearings on the preliminary report in a notice published at 59 FR 42819 on August 19, 1994. The hearings are being held in Chicago, on September 14, 1994 in Los Angeles on September 16, 1994 and in Washington on September 22 and 23, 1994. The written comments received, the testimony given at the hearings, and any guidelines or recommendations agreed to by the participants of the "Fair Use" conference will be considered by the Working Group in the Final Report.

Dated: September 7, 1994.

Michael K. Kirk,

Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

[FR Doc. 94–22567 Filed 9–9–94; 8:45 am]

BILLING CODE 3510–16–M

THE COMMISSION ON THE SOCIAL SECURITY 'NOTCH' ISSUE

Notice of Public Hearings and Requests for Written Statements

AGENCY: The Commission on the Social Security Notch Issue.

ACTION: Notice of hearing.

SUMMARY: The Commission on the Social Security 'Notch' Issue was established by the Treasury, Postal Service, and General Government Appropriations Act of Fiscal Year 1993 (Pub. L. 102–393, September 10, 1992).

BACKGROUND: The legislation adopted in 1972 to provide for automatic cost of living adjustments (COLA's) in social security benefits contained a flawed formula for determining benefits which resulted in higher benefits than intended. In 1977, Congress enacted legislation to remove this flaw. The new law was effective for all beneficiaries born after 1916 and the resulting benefit modification for those born for several years after that date created what has become known as the 'notch' issue.

DATES: The Commission on the Social Security 'Notch' Issue will hold a public hearing on Friday, September 16, 1994, at 9:00 a.m. in room 423 of the Federal Trade Commission, located at 6th and Pennsylvania Avenue, NW., Washington, DC.

Future hearings will be held in Kansas City, MO. November 15 and San Francisco, CA, November 17, 1994. Specific times and locations for these field hearings will be provided in October.

Any questions regarding Commission hearings should be directed to the Commission Staff, 202–336–8730.

SUPPLEMENTARY INFORMATION: Requests to present oral or written testimony at the hearing must be made by telephone to Karen Norrell or Ruth Anne Miller at 202–336–8730 before close of business September 14, 1994. The Notch Commission staff will notify those scheduled to appear. Three copies of the testimony must be submitted to the Commission staff by September 14, 1994 for the DC hearing. Testimony should be mailed or delivered to 1100 New York Ave., 10th floor, East Tower, Washington, DC 20005. Twenty-five copies of testimony should be submitted at the hearing.

Witnesses scheduled to present oral testimony are requested to summarize briefly their written statements. In view of the limited time available to hear witnesses, the staff may not be able to accommodate all requests to be heard. However, written testimony is welcome.

Any persons or organizations wishing to submit a written statement for the printed record of the hearing should submit 15 copies of their statements by the close of business, Wednesday, September 21, 1994. Copies should be mailed to the Commission on the Social Security 'Notch' Issue, 1100 New York Ave., NW., 10th floor, East Tower, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Norrell, 202–336–8730.

Authority: Public Law 102–393, September 10, 1992.

Alan K. Campbell,

Chairman.

[FR Doc. 94–22534 Filed 9–9–94; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Joint Advisory Committee on Nuclear Weapons Surety

ACTION: Notice.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety (JACNWS) was renewed, effective September 4, 1994, in consonance with the public interest, and in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act."

The JACNWS will continue to provide expert advice to the Secretary of Defense and the Department of Energy on all matters relating to nuclear weapons systems surety. This will include undertaking studies and preparing reports with recommendations on national policies and procedures to ensure the safe handling, stockpiling, maintenance, and risk reduction methodology of nuclear weapons.

The JACNWS will be composed of approximately four to seven members, to include both government and non-government individuals, who are experts in nuclear weapons safety measures and techniques. Efforts will be made to ensure a balanced membership, considering the functions to be performed and the interest groups represented.

For further information regarding the JACNWS, contact: Stan Keel (703) 693–9409.

Dated: September 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–22430 Filed 9–9–94; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Defense Environmental Response Task Force

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security).

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force (DERTF). The DERTF is charged with studying and providing findings and recommendations on environmental restoration at military installations being closed or realigned. The purpose of the meeting is to follow up on the June 9 and 10, 1994, meeting and to present and discuss the draft Fiscal Year 1994 Annual Report to Congress. The DERTF will also discuss issues related to environmental justice and adopt recommendations from the environmental baseline survey sub-working group. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the DERTF should contact Shah Choudhury, Executive Secretary, and prepare a written statement that can be summarized orally before the DERTF at the time to be fixed for public witnesses. Written statements must be received by the close of business, September 14, 1994, at the Office of the Under Secretary of Defense (Environmental Security).

DATES: September 28, 1994—10:00 a.m.–5:30 p.m.; September 29, 1994—8:00 a.m.–6:00 p.m.; September 30, 1994—8:00 a.m.–12:00 p.m.

PUBLIC COMMENT PERIODS ARE: September 28, 1994—4:30 p.m.–5:30 p.m.; September 29, 1994—5:00 p.m.–6:00 p.m.; September 30, 1994—10:00 a.m.–11:00 a.m.

ADDRESSES: Temple University's Center City Campus located between 16th & 17th Streets on Walnut, Philadelphia, PA (September 28–29); Philadelphia Naval Shipyard, Philadelphia, PA (September 30).

FOR FURTHER INFORMATION CONTACT: Mr. Shah Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301–3400; telephone (703) 604–5500.

Dated: September 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–22429 Filed 9–9–94; 8:45 am]

BILLING CODE 5000–04–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Hearings

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and agenda of a hearing to be held by the Defense Nuclear Facilities Safety Board to receive comments from members of the public in communities near the Department of Energy's Pantex Plant. The Board will conduct a public hearing pursuant to 42 U.S.C. 2286b and invites any interested persons or groups to present any comments, technical information, or data concerning the fifth annual report to be submitted to Congress by the Defense Nuclear Facilities Safety Board under 42 U.S.C. 2286e (note).

TIME AND DATE: 7:00 p.m., October 19, 1994.

PLACE: Amarillo Civic Center, 401 S. Buchanan, Amarillo, Texas (for Pantex Plant).

STATUS: Open.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (202) 208–6400. This is not a toll free number.

SUPPLEMENTARY INFORMATION: An independent agency within the executive branch, the Defense Nuclear Facilities Safety Board (Board) provides advice and recommendations to the President and the Secretary of Energy regarding public health and safety issues at Department of Energy (DOE) defense nuclear facilities.

Broadly, the Board reviews operations, practices, and occurrences at DOE's defense nuclear facilities and makes recommendations to the Secretary of Energy that are necessary to protect public health and safety. If, as a result of its reviews, the Board determines that an imminent or severe threat to public health or safety exists, the Board is required to transmit its recommendations directly to the President, as well as to the Secretaries of Energy and Defense.

The Board's enabling statute, 42 U.S.C. § 2286, requires the Board to review and evaluate the content and implementation of health and safety standards, including DOE's Orders, rules, and other safety requirements, relating to the design, construction, operation, and decommissioning of DOE's defense nuclear facilities. The Board must then recommend to the Secretary of Energy and specific measures, such as changes in the content and implementation of those standards, that the Board believes should be adopted to ensure that the public health and safety are adequately protected. The Board is also required to review the design of new defense nuclear facilities before construction begins, as well as modifications to older facilities, and to recommend changes necessary to protect health and safety.

The Board may conduct investigations, issue subpoenas, hold public hearings, gather information, conduct studies, establish reporting requirements for DOE, and take other actions in furtherance of its review of health and safety issues at defense nuclear facilities. These ancillary functions of the Board and its staff all relate to the accomplishment of the Board's primary functions, which is to assist DOE in identifying and correcting health and safety problems at defense nuclear facilities.

This public hearing is being held to provide the Board with general public comments and views on topics related to the fifth annual report to be submitted by the Board to Congress under 42 U.S.C. § 2286e (note) of the Atomic Energy Act of 1954, as amended. The Board's report must include the following:

"(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended."

The Board seeks the public's view on these issues.

A short introductory presentation may be made by a representative of the Board at the hearing, focusing on those Board activities of greatest relevance to the local communities. Requests to speak at the hearing may be submitted in writing or by telephone. We ask that commentators describe the nature and scope of the oral presentation. Those who contact the Board prior to close of business on the day before the hearing will be scheduled for time slots, beginning at approximately 7:10 p.m. The Board will post a schedule for those speakers who have contacted the Board before the hearing. The posting will be made at the entrance to the hearing room at the start of the hearing.

Anyone who wishes to comment, provide technical information or data may do so in writing, either in lieu of, or in addition to making an oral presentation. The Board members may question presenters to the extent deemed appropriate. The Board will hold the record open until November 2, 1994, for the receipt of materials. A transcript of the hearing will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office and at the DOE's public reading room at the Department of Energy Reading Room at the Lynn Library/ Learning Center, Amarillo College, 2201 S. Washington, Amarillo, Texas 79109, and at the Department of Energy Reading Room at the Carson County Library, 401 Main Street, Panhandle, Texas 79068.

The Board specifically reserves its right to further schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone or adjourn the hearing, conduct further reviews, and otherwise exercise its power under the Atomic Energy Act of 1954, as amended.

Robert M. Andersen,

General Counsel.

[FR Doc. 94–22424 Filed 9–9–94; 8:45 am]

BILLING CODE 6820–KD–M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center; Financial Assistance Award to the All-Russia Thermal Engineering Institute (Grant)

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for Grant award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.14, the DOE, Morgantown Energy Technology Center (METC), gives notice of its plans to award a six-month Grant to the All-Russia Thermal Engineering Institute, Moscow, Russia, in the total estimated amount of $94,800, to be cost-shared by the DOE in the amount of $50,000. Award will not be made for at least 14 days after publication of this notice in order to allow time for public comment.

FOR FURTHER INFORMATION CONTACT: Ronald D. Roth, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4244, Procurement Request No. 21–94MC31392.000.

SUPPLEMENTARY INFORMATION: The participant will assess U. S. clean coal technologies for application to Russian utility systems. The commercial status of the technologies and their applicability to Russian power plants using site specific base cases will be assessed. Issues and barriers to successful application in Russia will be identified. The results will enable U. S. industry to efficiently address the technical issues necessary to optimize sales in Russia.

Randolph L. Kesling,

Acting Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 94–22489 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance: The Aluminum Company of America (Alcoa); Cooperative Agreement No. DE–FC07–89ID12903 (Renewal)

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.7, it intends to award a renewal for Cooperative Agreement Number DE–FC07–89ID12903 to the Aluminum Company of America (Alcoa). The proposed renewal would provide funds for a project to develop lightweight (low density) refractory aggregates for use in a variety of high performance insulating (low thermal conductivity) refractory applications. The project goal is the development of an alumina-based aggregate with a 30% reduction in packed bulk density, with 50% of current crushing strength, and with costs not to exceed 25% more than existing alumina aggregates. The original proposal "Lightweight Refractory Aggregates" was submitted to DOE by the Aluminum Company of America (Alcoa) in response to Solicitation for Financial Assistance Applications for Refractory Materials Research and Development No. DE–PS07–88ID12782. The proposed costs for completion of Phase III of the project is $1,265,855 with a 20% cost share by The Aluminum Company of America (Alcoa). The CFDA number is 81.078.

FOR FURTHER INFORMATION CONTACT: Ginger Sandwina, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS 1221, Idaho Falls, Idaho (208) 526–8698.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is the Energy Conservation Program begun in 1977 under the mandate of the Federal Non-Nuclear Energy Research and Development Act of 1974 (PL 93–577).

The proposal meets the criteria for "non-competitive" financial assistance as set forth in 10 CFR Part 600.7(b)(2)(i)(A). The activity to be

funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another federal agency, and for which competition for support would have a significant adverse effect on continuity of completion of the activity.

Issued: August 24, 1994.

David W. Newnam,

Acting Director, Procurement Services Division.

[FR Doc. 94–22509 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Energy Efficiency Export Council

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Pursuant to 10 CFR 600.7(b)(2)(i)(D), the U.S. Department of Energy (DOE) Region I Support Office, through the Golden Field Office, intends to award additional funds for two additional tasks to be completed under an existing grant to the Energy Efficiency Export Council (EEEC). The grant provided funding for a series of tasks related to export promotion of U.S. energy efficiency products and services. The EEEC efforts are on behalf of and in collaboration with the Committee on Energy Efficiency Commerce and Trade (COEECT). COEECT functions as the Federal Interagency Working Subgroup on Energy Efficiency established by section 1207 of the Energy Policy Act of 1992, H.R. 776 (EPACT).

SUPPLEMENTARY INFORMATION: The two additional tasks, which were negotiated with the DOE, Office of Technical Assistance (OTA), establishes funding to place two specialists in financing of energy efficiency/demand side management projects at the European Bank for Reconstruction and Development (EBRD). The specialists, who will be accessible to the U.S. Director at EBRD, will help U.S. companies obtain financing for energy efficiency projects in Europe and the former Soviet Union. The completion of these tasks should result in an increase in exports of U.S. energy efficiency products and services. Total additional funding is $66,025.

Noncompetitive financial assistance to EEEC is in accordance with the justifying criteria presented in 10 CFR 600. The DOE/OTA has determined that EEEC has exclusive domestic capability to represent and interact with the U.S. energy efficiency products and services industry, and, is, therefore, uniquely capable to fulfill many aspects of the mission established for the COEECT by section 1207 of EPACT.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Attn: Hugh Saussy, Jr., Region I Support Office, One Congress Street, Boston, MA 02114–2021, 617–565–9700.

Issued at Golden, Colorado, on: August 31, 1994.

John W. Meeker,

Contracting Officer.

[FR Doc. 94–22504 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Florida Department of Community Affairs

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Pursuant to 10 CFR 600.7(b)(2)(ii)(A–F), The U.S. Department of Energy Region IV Support Office, through the Golden Field Office, intends to award a grant to the Florida Department of Energy Affairs/State Energy Office to analyze and develop an approach to using solar power in emergency management and disaster relief and compile the results in a "How to Do" manual that will benefit government agencies, emergency management organizations and relief workers.

SUPPLEMENTARY INFORMATION: The Florida State Energy Office conducted several exercises, in the wake of Hurricane Andrew, to test the feasibility of using solar power as an alternative electricity source in disaster relief. Photovoltaic cells were used to power communication devices, refrigerators for cooling vaccines, security lights, etc. The Florida Energy Office, having already performed such exercises, is aptly qualified to implement the proposed study. Programmatic evaluation has shown that such exercises are highly feasible with a high probability for success. The Department of Energy has interest in further developments and studies relating to the use of solar energy in disaster relief. The published results, which will be an available resource to a variety of organizations and agencies, will support the use of solar energy as a renewable energy resource.

The proposed award meets the criteria for noncompetitive financial assistance specified in paragraph 10 CFR 600.7(b)(2)(i)(B). Department of Energy support of this activity would enhance the public benefits to be derived and the Department knows of no other entity which is conducting or is planning to conduct such an activity.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Attn: Fred Singleton, Atlanta Support Office, 730 Peachtree Street, N.E., Atlanta, Georgia 30308, 404–347–3482.

Issued at Golden, Colorado, on: August 31, 1994.

John W. Meeker,

Contracting Officer, Golden Field Office.

[FR Doc. 94–22500 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center Financial Assistance Award; Award of Grant

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i) Criteria (B), the DOE, Morgantown Energy Technology Center (METC) gives notice of its plans to award a grant for The International Gas Research Conference, c/o Gas Research Institute, 8600 W. Bryn Mawr Avenue, Chicago, Illinois, 60631, in the amount of approximately $789,000, of which $194,000 will be funded by the DOE. The total project period will be for an estimated fifteen (15) months.

FOR FURTHER INFORMATION CONTACT: D. Denise Riggi, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4241, Procurement Request No. 21–94MC30096.000.

SUPPLEMENTARY INFORMATION: The purpose of the grant is to provide financial assistance for the International Gas Research Conference to be held in November, 1995. This conference is one in a series of conferences which provides a unique international forum for exchange of high quality original research and development results, permanent literature on gas-related research, and the interfaces required for future coordination efforts. DOE support of this conference will ensure that the results of the discussions will receive broad public dissemination.

Issued in Washington, DC, on September 6, 1994.

Randolph L. Kesling,

Acting Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 94–22499 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award; The National Academy of Sciences

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of intent.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center, announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B) and (D) it intends to make a Non-Competitive Financial Assistance Award to The National Academy of Sciences for the support of its Board on Earth Sciences and Resources.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Center, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn.: Nancy Toppetta, Telephone: (412) 892–5715.

Comments or inquiries should be submitted within 14 days of the date of this announcement.

SUPPLEMENTARY INFORMATION: The purpose of this proposed award is for the National Academy of Sciences to coordinate the National Research Council's advice to the federal government on solid earth science issues. The board will identify opportunities for advancing basic research and understanding, report on application of earth sciences in such areas as disaster mitigation and resource utilization and analyze scientific underpinnings and credibility of earth science information for resource, environmental and other applications and policy decisions. The project period for the grant is three years.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (B), and (D), the National Academy of Sciences has been selected as the grant recipient. Criterion (B) is satisfied in that the NAS would conduct the proposed project using their own or third party resources. In addition to DOE, various other federal agencies, including DOI, NASA, NRC, and NSF are potential financial supporters of the Board's studies. Also, DOE/PETC will contribute only 6% of the total dollar of the three year project. Criterion (B) is also satisfied in that DOE support of the NAS Board on Earth Sciences and Resources will enhance public benefit. Specifically, benefit will result from the Board's studies in areas of overall health of the earth science disciplines (and education of earth scientists) that are vital to the nation in maintaining and increasing its capabilities to make wise use of the earth and its resources. Additionally, Criterion (B) is satisfied in that DOE knows of no other entity planning to accomplish the above stated purposes. Criterion (D) is satisfied in that, consistent with 41 U.S.C. 253, the National Academy of Sciences is a uniquely qualified (external) organization chartered by Congress in 1863 to conduct studies in the science and art when called upon by any Department of the Federal Government.

Dated: August 30, 1994.

Richard D. Rogus,

Chief, Contracts Group B, Acquisition and Assistance Division.

[FR Doc. 94–22485 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Golden Field Office; Dallas Support Office

Financial Assistance Award; Oklahoma State University

AGENCY: Department of Energy, Golden Field Office and Dallas Support Office.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Golden Field Office, through the Dallas Support Office, announces that it intends to award a grant to Oklahoma State University (OSU)/International Ground Source Heat Pump Association (IGSHPA). The proposed award meets the criteria in 10 CFR 600.7(b)(2)(i)(B) in addition to the type of factors listed in 10 CFR 600.14(d). The financial assistance is for support of the Geothermal Technical Development/ Training Project.

SUPPLEMENTARY INFORMATION: The Geothermal Technical Development and Training Project will be one of the most significant national efforts for developing and promoting the use of ground source heat pumps as an energy efficient and environmentally beneficial method of heating and cooling buildings. This project will integrate research, technology transfer and training to develop better hardware and software used to implement the technology, as well as the production of brochures, case histories, fact sheets, articles and related media activities to promote the use of geothermal heating and cooling. Advances in ground source heat pump efficiency and installation techniques, as well as reductions in installation costs, make the cost of this technology comparable with those of competitive heating and cooling technologies, while operating costs and energy usage are demonstrably lower. This is especially important for institutional and government facilities faced with budget constraints and increasing utility expenditures. The DOE anticipates providing funds in the amount of $295,000 for a project period of one year with possible funding, in varying amounts, for an additional two years contingent on the availability of funds.

FOR FURTHER INFORMATION CONTACT: Linda K. Carter, U.S. Department of Energy, Dallas Support Office, 1420 West Mockingbird Lane, Suite 400, Dallas, TX 75247.

Issued in Golden, Colorado, on August 31, 1994.

John W. Meeker,

Contracting Officer.

[FR Doc. 94–22505 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Golden Field Office; Notice of Grant Award to Smithsonian Institution

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to award a grant to the Smithsonian Institution for an exhibit update in support of the DOE Office of Building Energy Research programs. The project will update an exhibit at the National Museum of American History.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: John W. Meeker, Contract Specialist, 303–275–4748.

SUPPLEMENTARY INFORMATION: The proposed project will update the exhibit, "Lighting a Revolution" by adding a section on new lighting technologies. This new information will contribute to the DOE mission by increasing public awareness of new, energy efficient lighting products in buildings. DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is necessary to satisfactorily complete the current project. DOE funding for the Grant is estimated at $90,000 and the anticipated period of performance is twelve (12) months.

Issued in Golden, Colorado, on August 31, 1994.

John W. Meeker,

Contracting Officer, Golden Field Office.

[FR Doc. 94–22501 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Notice of Non-Competitive Financial Assistance Award

SUMMARY: The Department of Energy (DOE), Golden Field Office, through the Chicago Regional Support Office, announces that, pursuant to DOE Financial Assistance Rules 10 CFR 600.7(b)(2), its intent to award a grant to the Council of Great Lakes Governors. The award represents renewed funding under DOE's Regional Biomass Energy Program. The goal of this program is to build and maintain the capacity of state energy, forestry and environmental quality offices to responsibly promote biomass technologies and the use of biomass energy in the seven state Great Lakes Region.

SUPPLEMENTARY INFORMATION: The Council of Great Lakes Governors is responsible for the administration of the Great Lakes Regional Biomass Program (GLRBEP). The GLRBEP has three basic components. A state grant component provides funds (with a 50/50 matching requirement) to each of the states in the region to strengthen and integrate the work of state agencies involved in biomass energy. The applied research and technology transfer component produces a series of technical reports in areas that have been identified as being important to the development of biomass energy in the region. The third component is a long range planning effort, with substantial involvement from the private sector, to identify activities necessary to spur greater development and use of biomass energy in the Great Lakes Region.

The grant is being accepted by DOE because DOE knows of no other organization that is conducting or planning to conduct this type of effort in promoting of the use of biomass energy in the Great Lakes Region. The project period for the award is twelve months, expected to begin September 1994. DOE plans to provide funding in the amount of $730,000.

FOR FURTHER INFORMATION CONTACT: Juli A. Pollitt, U.S. Regional Support Office, 9800 South Cass Avenue, Argonne, Illinois 60439, 708/252–2313.

Issued in Golden, Colorado on August 31, 1994.

John W. Meeker,

Contracting Officer.

[FR Doc. 94–22503 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center Financial Assistance Award to Illinois Institute of Technology; Grant

AGENCY: Morgantown Energy Technology Center, U. S. Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for Grant award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i), (D) the DOE, Morgantown Energy Technology Center gives notice of its plans to award an eighteen-month Grant to Illinois Institute of Technology, Chicago, Illinois in the amount of $204,000.

FOR FURTHER INFORMATION CONTACT: R. Diane Manilla, U. S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26505, Telephone: (304)291–4086, Grant No. DE–FG21–94MC31078.

SUPPLEMENTARY INFORMATION: The participant shall improve molten carbonate fuel cell (MCFC) power density, particularly under pressurized low-CO_2 conditions. A new direction will be pursued, prompted by unexpected findings in recent experiments at IIT related to cathode dissolution in the MCFC. These findings indicate spalling of nickel and dissolution of spalled nickel or nickel oxide particles during oxidation of nickel foil and wire. Spalling and dissolutions are relevant to understanding the long-term shorting phenomena in MCFC cells or stacks. A third objective is to carry out systematic measurements on the solubility of the major structural alloy components (as oxides) in various compositions of carbonate.

Issued: September 6, 1994.

Randolph L. Kesling,

Acting Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 94–22498 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–P

Golden Field Office

Notice of Grant Award to Rensselaer Polytechnic Institute

AGENCY: Department of Energy.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to award a grant to Rensselaer Polytechnic Institute for continuing research efforts in support of the DOE Office of Building Energy Research programs. The project will develop and disseminate information on energy efficient lighting products through the National Lighting Product Information Program.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: John W. Meeker, Contract Specialist, 303–275–4748.

SUPPLEMENTARY INFORMATION: The proposed information development project will contribute to the DOE mission by assisting in the development and dissemination of information which will increase the use of energy efficient lighting products in buildings. DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is necessary to satisfactorily complete the current project. DOE funding for the Grant is estimated at $63,000 and the anticipated period of performance is twelve (12) months.

Issued in Golden, Colorado on August 31, 1994.

John W. Meeker,

Contracting Officer, Golden Field Office.

[FR Doc. 94–22502 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Kansas City Support Office; Non-Competitive Financial Assistance Award to the Society of Automotive Engineers (SAE)

AGENCY: U.S. Department of Energy (DOE).

ACTION: DOE, Office of Alternative Fuels, Transportation Technologies Energy Efficiency and Renewable Energy, through the Kansas City Regional Support Office, announces that, pursuant to the Financial Assistance Rules, 10 CFR 600.7(b)(2)(i)(B)&(D), DOE intends to make a non-competitive financial assistance award to the Society of Automotive Engineers (SAE). The anticipated overall objective is to organize and conduct the 1994–1995 Alternative Fuels TOPical TEChnical (TOPTEC) meeting series.

FOR FURTHER INFORMATION CONTACT: Benjamin D. Watson or Jo Ann Timm, Kansas City Regional Support Office, US DOE, 911 Walnut, Room 1411, Kansas City, MO 64106, (816) 426–4770. or Fax: (816) 426–6860.

SUPPLEMENTARY INFORMATION: The grant of $100,000 will partially fund the

1994–1995 Alternative Fuels TOPTEC meeting series to college and university faculty and students. The term of this award will be twelve (12) months from the effective date of award.

DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is suitable for non-competitive financial assistance and is not eligible for financial assistance under a recent, current or planned solicitation.

Issued in Golden, Colorado on August 31, 1994.

John W. Meeker,

Chief, Procurement Team, GO.

[FR Doc. 94–22508 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; United States Energy Association

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of intent.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center, announces that pursuant to 10 CFR 600.7(b)(2)(i) (B) and (D) it intends to make a Non-Competitive Financial Assistance Award (Grant) through the Pittsburgh Energy Technology Center (PETC) to the United States Energy Association (USEA). The DOE's role shall be as co-sponsor along with the International Energy Agency (IEA). The purpose of the grant is for USEA to organize and conduct the conference on "The Strategic Value of Fossil Fuels: Challenges and Responses," to be held in Houston, TX on May 2–4, 1995. The Conference will serve as a forum to evaluate problems facing the fossil energy community including energy security, environmental requirements, compliance strategies, R&D agendas, technology innovation and regulatory issues.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Center, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn.: Mary Beth J. Pearse, Telephone: (412) 892–4949. Comments or inquires should be submitted within 14 days of the date of this announcement.

SUPPLEMENTARY INFORMATION: The estimated cost to organize and conduct the conference is $250,000. DOE's funding share will be $100,000. The objective of the grant (DE–FG22–94PC94024) is to evaluate fossil fuels and their responsiveness to changing economic, environmental, and institutional forces, and to develop awareness of emerging trends and strategies to respond to challenges that may be presented. The Conference will focus on the entire spectrum of fossil fuels from initial production and recovery to end-use.

Non-competitive Financial Assistance is warranted based on USEA's exclusive capability to conduct the conference successfully. Furthermore, private sector funding will finance the majority of conference expenses. DOE funding on a non-competitive basis will enhance the public benefit to be derived from the conference. DOE knows of no other entity who is planning to conduct a similar conference.

Dated: August 30, 1994.

Richard D. Rogus,

Contracting Officer.

[FR Doc. 94–22486 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Grant Award to University of Texas at Austin

AGENCY: Department of Energy.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to award a grant to the University of Texas at Austin, for continuing research efforts in support of the DOE Office of Building Energy Research programs. The project seeks to improve solar domestic hot water systems.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: Cidney L. Bippus, Contract Specialist, 303–275–4793.

SUPPLEMENTARY INFORMATION: The proposed basic research will contribute to the DOE mission by assisting in the development of improved solar water heating technologies for use in buildings.

Successful completion of this research would advance the goal of wide commercialization of solar water heating systems. Deploying these technologies will reduce energy use in buildings which, in the U.S., accounts for about 40% of annual national energy consumption.

DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is necessary to satisfactorily complete the current research. DOE funding for the Grant is estimated at $25,000 and the anticipated period of performance is twelve (12) months.

Issued in Golden, Colorado on August 8, 1994.

John W. Meeker,

Procurement Chief, Golden Field Office.

[FR Doc. 94–22507 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center Financial Assistance Award to the University of North Dakota Energy and Environmental Research Center (Cooperative Agreement)

AGENCY: Morgantown Energy Technology Center (METC), U.S. Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for Cooperative Agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i)(D), the DOE, Morgantown Energy Technology Center, gives notice of its plans to award a sixty month Cooperative Agreement to the University of North Dakota, Grand Forks, North Dakota, in the amount of $2,450,000.

FOR FURTHER INFORMATION CONTACT: Mark L. Estel, IO7, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880; Morgantown, West Virginia 26507–0880, Telephone (304) 291–4085, Procurement Request No. 21–94MC31388.000.

SUPPLEMENTARY INFORMATION: The participant will develop, demonstrate, and commercialize technologies that address environmental management needs of contaminated DOE sites. Projects may be conducted in the following research areas: in-situ remediation; characterization, sensors, and monitoring; low-level mixed waste processing; efficient separations technology for radioactive and non radioactive wastes; robotics; material storage and disposal; and improved waste forms.

Issued: September 2, 1994.

Randolph L. Kesling,

Acting Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 94–22511 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–P

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet September 20, 1994, at the offices of the Organization for Economic Cooperation and Development (OECD) in Paris, France, to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions on the same date at the OECD offices.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 20, 1994, at the headquarters of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre-Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the OECD on September 20, including a preparatory session for company representatives from 9:00 a.m. to 9:30 a.m. The agenda for the preparatory session for company representatives is to elicit views regarding items on the agenda for the SEQ meeting. The agenda for the meeting of the SEQ is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the Agenda
2. Approval of Summary Record of the 81st Meeting
3. U.S. Proposals on Coordinated Emergency Response Measures
4. Emergency Reserve Situation of IEA Countries
—Emergency Reserve and Net Import Situation of IEA Countries on 1st April 1994
—Emergency Reserve and Net Import Situation of IEA Countries on 1st July 1994
—Draft SEQ Report to the Governing Board on the Emergency Reserve Situation of IEA Countries on 1st July 1994
—Basis for Calculating Emergency Reserves
5. IEA Workshop on Stockdraw and Emergency Response Management
—Publication of the Proceedings of the Workshop
6. IAB Activities
7. Emergency Management Manual, Emergency Reference Guide
—The Emergency Management Manual
—The Emergency Reference Guide
8. SEQ Work Program for 1995
9. Oil Markets
—Current Oil Market Situation
10. Emergency Response Reviews
—The Emergency Response Potential of IEA Countries
—Revised Emergency Response Review Questionnaire
11. Energy Policy and Conservation Act
12. IEA Review of Korea
13. Emergency Data System and Related Questions
—Monthly Oil Statistics (MOS) to end April 1994
—MOS to end May 1994
—MOS to end June 1994
—Base Period Final Consumption (BPFC) Q293–Q194
—BPFC Q393–Q294
—Revised MOS Questionnaire
—Quarterly Oil Forecast—Q394/Q295
14. National Petroleum Council—Study of U.S. Refining Industry
15. Emergency Response Issues Related to Oil Products
—Aviation Fuel Residual Oil
16. Any Other Business
—Tentative dates of SEQ meetings in January and May 1995

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii), this meeting is open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ or the IDA.

Issued in Washington, D.C., September 6, 1994.

Robert R. Nordhaus,

General Counsel.

[FR Doc. 94–22484 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Secretary of Energy Advisory Board Task Force on Alternative Futures for the DOE National Laboratories

AGENCY: Department of Energy.

ACTION: Notice of open public meeting.

SUMMARY: Notice is hereby given of the following open public meeting of the Task Force.

Name: Secretary of Energy Advisory Board Task Force on Alternative Futures for the DOE National Laboratories

Date and Time: Monday, September 19, 1994, 8:30 AM–1:00 PM

Place: Crystal City Marriott, Potomac Ballroom, Mezzanine Level, 1999 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Michele Donovan, Task Force Director, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7092.

SUPPLEMENTARY INFORMATION: Purpose of the Task Force: The Secretary of Energy Advisory Board Task Force on Alternative Futures of the DOE National Laboratories was established to serve as the Secretary of Energy's primary mechanism for examining options for change within the laboratories and proposing specific alternatives for directing the scientific and engineering resources of the laboratories toward the economic, environmental, defense, scientific and energy needs of the Nation. The Task Force was established under the Secretary of Energy Advisory Board Charter and consists of 23 members, including Board members and outside experts. The Task Force is expected to report in February 1995.

Tentative Agenda

8:30 AM—Opening Remarks by Chairman Bob Galvin
8:35 AM—The Idaho National Engineering Laboratory Contract
9:05 AM—Remarks by New Director INEL
9:20 AM—Round-Table Discussion of Role of the Laboratories in Basic Research
11:00 AM—Break
11:15 AM—Round-Table Discussion on Nuclear Weapons Issues
12:45 PM—Public Comment Period
1:00 PM—Meeting Adjourns

A final agenda will be available at the meeting.

Public Participation: The Task Force welcomes the public's input and written representations. If business permits, members of the public may be heard in the order in which their requests are received and the five minute rule will ordinarily apply. The Task Force will make every effort to hear the views of interested parties. Written comments addressed to the Task Force are urged, and may be submitted to Dr. Michele Donovan, Task Force Director, Secretary of Energy of Advisory Board, 1000 Independence Avenue, SW, 7B–198/AB–1, Washington, DC 20585. Written comments received by Thursday, September 16, 1994, will be made available to Task Force members prior to the meeting. This notice is published less than 15 days prior to the meeting

date due to difficulty in locating appropriate meeting facilities.

Minutes: Minutes of the meeting will be available for public review and copying approximately 30 days following the meeting at the Department of Energy Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday.

Issued at Washington, DC, on September 7, 1994.

Marcia Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 94–22487 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of May 2 Through May 6, 1994

During the week of May 2 through May 6, 1994 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

The National Security Archive, 5/3/94, LFA–0365

The National Security Archive (NSA) filed an Appeal from a determination issued to it on March 18, 1994 by the Office of Resource Management (ORM), Office of Policy, Planning, and Program Management of the Department of Energy which denied a request for information it had filed under the Freedom of Information Act (FOIA). The request sought information concerning the export of 4.3 tons of heavy water from the U.S. to Israel in 1963. The ORM stated that it did not possess any responsive documents, and the Appeal challenged the adequacy of the search. In considering the Appeal, the DOE found that NSA's FOIA request may not have been subjected to a search sufficiently thorough and conscientious to meet the established standard of reasonableness. Accordingly, the Appeal was granted and remanded to the FOI Branch for further action.

Requests for Exception

Carson Petroleum Co., 5/4/94, LEE–0055

Carson Petroleum Co. (Carson) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering Carson's request, the DOE found that the firm was not experiencing a gross inequity or serious hardship. On March 10, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objection to the Proposed Decision and Order was filed within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Carson's Application for Exception.

Dick's Oil Co., 5/3/94, LEE–0067

Dick's Oil Co. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Accordingly, exception relief was denied.

Friendly Service Stations, Inc., 5/3/94, LEE–0070

Friendly Service Stations, Inc. (Friendly) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–82B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." Friendly showed that it had been forced by financial difficulties to reduce its staff to such an extent that complying with the reporting requirement would impose an inordinate burden on the firm. DOE therefore determined that exception relief should be granted. Friendly hopes that its current difficulties will prove temporary. The exception relief granted will therefore be effective for a period of nineteen months, ending April 30, 1995. If Friendly wishes to receive continued exemption from filing requirements after that time, it must then reapply with the DOE. Accordingly, the Application was granted in part.

Raymer Oil Company, 5/3/94, LEE–0095

Raymer Oil Company (Raymer) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. On March 24, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objections to the Proposed Decision and Order was filed at the Office of Hearings and Appeals of the DOE within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Raymer's Application for Exception.

Rockford Grain Growers, 5/4/94, LEE–0064

Rockford Grain Growers (Rockford) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not experiencing a serious hardship, gross inequity, or unfair distribution of burdens arising from this filing requirement. On February 10, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. A Notice of Objections (Objections) to the Proposed Decision and Order was filed at the Office of Hearings and Appeals of the DOE on March 14, 1994. In the Objections, Rockford submitted additional information which demonstrated that the firm's precarious financial situation was exacerbated by the requirement to file EIA–782B. Since Rockford demonstrated in its Objections that it was experiencing an unfair distribution of burdens, the DOE issued a Decision and Order, granting Rockford's Application for Exception.

V.W. Smith Oil, Inc., 5/3/94, LEE–0081

V.W. Smith Oil, Inc. (V.W. Smith) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. On February 28, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objections to the Proposed Decision and Order was filed at the Office of Hearings and Appeals of the DOE within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying V.W. Smith's Application for Exception.

Interim Order

Hunt Oil Co., 5/3/94, LEN–0086

Hunt Oil Co. filed an Application for Exception from the provisions of the requirement to file Form EIA–782B in which the firm sought relief from filing the form. In considering the request, the DOE found that interim exception relief was necessary to alleviate a serious hardship to the reporting firm. Accordingly, interim exception relief was granted. Although the reporting requirement did not create the hardship, it aggravated the situation faced by Hunt.

Refund Applications

ASARCO Incorporated—Ray Unit ASARCO Incorporated, 5/3/94, RF272–13526, RD272–13526, RF272–25467

The DOE issued a Decision and Order concerning two Applications for Refund filed on behalf of ASARCO Incorporated—Ray Unit and ASARCO Incorporated in the crude oil special refund proceeding being disbursed by the DOE under 10 C.F.R. Part 205, Subpart V. The DOE determined that the refund claims were meritorious and granted a refund of $175,157. However, the DOE denied a portion of the claim, because it was based on gallons of petroleum products covered by price escalator clauses. The DOE also denied a Motion for Discovery filed by a consortium of States and two Territories and rejected their challenge to the claim. The DOE denied the States' Objections, finding that the industry-wide econometric data submitted by the States did not rebut the presumption that the Applicant was injured by the crude oil overcharges.

Standard Oil Co. (Indiana)/Idaho, 5/4/94, RM21–268

The DOE issued a Decision and Order approving a Motion for Modification of a

previously-approved second-stage refund plan filed by the State of Idaho (Idaho). In its Motion, Idaho requested the authority to use $175,096.29 of its uncommitted Standard Oil Co. (Indiana) second-stage refund monies to fund four projects in Idaho's State Energy Conservation Program. The DOE affirmed the timely restitutionary benefits of the plan to promote the efficient use to energy in Idaho. The DOE also identified the proposed recipients of those benefits (the people of Idaho) as a substantial segment of injured consumers of refined petroleum products. The Idaho plan was thus found to satisfy the criteria for a second-stage refund restitutionary program. Accordingly, Idaho's Motion for Modification was approved.

Texaco Inc./Dental's Automotive Center, 5/5/94, RR321–56

The DOE issued a Decision and Order granting a Motion for Reconsideration filed by R.W. Dental, the owner of Dental's Automotive Center (Dental's), in the Texaco Inc. special refund proceeding. Mr. Dental's refund application had been denied because the DOE determined that the business was not a purchaser of Texaco products, but a consignee of an independent Texaco distributor. In the Motion, Mr. Dental demonstrated that, because the per gallon margin Dental's received for sales of Texaco products fluctuated, the business was susceptible to Texaco price increases and market pressures. Accordingly, the DOE granted Mr. Dental a total refund of $13,908 under the medium-range presumption of injury.

Texaco Inc./Houston & Davidson Texaco, 5/3/94, RF321–20557

The DOE issued a Decision and Order denying an Application for Refund filed by Mr. William E. Davidson on behalf of Houston & Davidson Texaco in the Texaco Inc. special refund proceeding. The DOE found that the applicant had not shown that he had had any ownership interest in the outlet located at 300 N. Euclid St., Fullerton, California, either as a partner or otherwise, and therefore concluded that he was not eligible for a refund based on the purchases made by that outlet.

Texaco Inc./Jerry's Texaco, Kelly's Texaco, 5/4/94, RF321–19200, RF321–19308

Applications for Refund were filed by Jerry Mittler on behalf of Jerry's Texaco (Case No. RF321–19200) and by Jack Fensterheim on behalf of Kelly's Texaco (Case No. RF321–19308) requesting refunds based on purchases of Texaco petroleum products. Each applicant estimated that he purchased 32,000 gallons of Texaco motor gasoline each month he was in business, and requested that his refund be based on this estimate. In considering this request, the DOE found that this estimate was not reliable, since it was based solely on the applicants' recollection of the size and frequency of gasoline deliveries. Accordingly, the DOE issued a Decision and Order denying the Applications for Refund filed by Jerry Mittler and Jack Fensterheim.

Texaco Inc./Wathke's Interstate Texaco, Haak's Texaco, 5/3/94, RF321–20937, RF321–20965

The DOE issued a Decision and Order concerning two Applications for Refund filed on behalf of Wathke's Interstate Texaco (Wathke) and Haak's Texaco (Haak) in the Texaco Inc. special refund proceeding. Both applications were postmarked after the February 28, 1994 deadline for submitting applications in the Texaco proceeding. The applicant's representative, Resource Refunds, Inc. (RRI), argued that Wathke's application should be considered as filed timely because Wathke mailed RRI its application in an envelope postmarked February 24, 1994 and that RRI did not receive Wathke's application until March 2, 1994. RRI argued that Haak's application should be considered timely because Haak mailed material needed to complete its application to the wrong address. The DOE held that, with respect to Wathke, it was immaterial that its application was delayed in its transmission to RRI since Wathke itself elected to send its application to RRI by mail instead of sending it to the DOE directly, and that RRI could not be considered an agent of the DOE for purposes of satisfying the deadline. In addition, the DOE held that Haak's negligence in sending information to the wrong address was not a sufficient excuse to justify its late application. Because Wathke's and Haak's applications were filed after the February 28 deadline and no equitable considerations existed in excusing their lateness, the DOE dismissed both applications.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Ed Yee, Inc. et al	RF304–14396	05/03/94
Atlantic Richfield Company/Fox Hills Services, Inc. et al	RF304–14350	05/03/94
Atlantic Richfield Company/H.C. Rineer & Sons, Inc	RF304–13486	05/03/94
Atlantic Richfield Company/Horry N. & Larry L. Brock et al	RF304–13181	05/06/94
Atlantic Richfield Company/P&H Gas Company	RF304–13021	05/05/94
Atlantic Richfield Company/Rich & Horton Oil Co. et al	RF304–13756	05/05/94
Beacon Oil Company/San Lucas Truck Stop	RR238–1	05/06/94
Central Soya Feed Co., Inc	RF272–93829	05/04/94
Central Soya Co., Inc	RF272–93882	
Cherokee Brick and Tile Co. et al	RF272–93805	05/03/94
Eau Claire Transit	RC272–236	05/03/94
Enron Corp./K.C. Sales Company, Inc	RF340–102	05/06/94
Eastwin Bottle Gas Service	RF340–143	
Famous Lubricants, Inc	RF272–93317	05/03/94
Gulf Oil Corp./Mr. Best Car Wash Systems, Inc	RF300–20155	05/03/94
Gulf Oil Corp./Yorktown Gulf II	RF300–21790	05/06/94
Inwood Heights et al	RF272–56902	05/03/94
Lompoc Unified School District	RF272–79166	05/04/94
Luke Oil Company, Inc	RF272–94743	05/03/94
C. Jim Spence Oil Company, Inc	RF272–94744	
Kramer Tire Company	RF272–94760	
Shell Oil Company/Ingram Shell Service	RF315–10285	05/04/94
Texaco Inc./Tom Lacaze Texaco	RF321–20453	05/03/94

Dismissals

The following submissions were dismissed:

Name	Case No.
Bill Louie's Arco	RF304–14283
Dohrn Transfer Co., Inc	RF272–78472
Jay F. Darrenogue	RF321–17070
Muscogee County Air Service.	RF300–20747
Myers Chevron	LEE–0089
Native Americans for a Clean Environment.	LFA–0367
Northeast Utilities Service Co	RF321–20936
Reynolds Electrical & Engineering Co., Inc.	LWA–0007
T.W. Brown Oil Co., Inc	RF321–19146
Westinghouse Hanford Company.	LWZ–0030
Windsor Service, Inc	RF321–20010

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: September 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–22506 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders During the Week of July 4 Through July 8, 1994

During the week of July 4 through July 8, 1994, the decisions and orders summarized below were issued with respect to applications for refund or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Texaco Inc./Canterbery's Texaco, 7/6/94, RR321–158

The DOE issued a Decision and Order concerning Motion for Reconsideration that Jimmy Canterbery, the owner of Canterbery's Texaco, filed in the Texaco refund proceeding. Mr. Canterbery had previously filed an Application for Refund that was dismissed in July 1972 because of his failure to provide motor gasoline purchase information necessary to support his refund claim. In his reconsideration request, which was filed in June 1994, Mr. Canterbery included purchase information. However, this information was submitted more than three months after the final filing deadline in the Texaco proceeding and almost two years after the dismissal letter. Since Mr. Canterbery did not present any reason for the delay, the DOE determined that there was no compelling reason to reopen the refund proceeding to accept his claim. Accordingly, the Motion for Reconsideration was dismissed.

Time Oil Co./California, National Helium Corp./California, Charter Co./California, 7/7/94, RQ334–589, RQ3–590, RM23–269

The DOE issued a Decision and Order granting two second-stage refund applications and a Motion for Modification filed by the State of California. In its applications and Motion for Modification, California requested a total of $1,273,646 of new Time Oil Co. and National Helium Corp. second-stage refund monies as well as approval to use $144,142 of previously allocated Charter Co. monies to fund four projects intended to reduce single-occupant motor vehicle travel, traffic congestion and fuel consumption. The DOE affirmed the timely restitutionary benefits of the state's plan for the funds, and identified the proposed recipients of those benefits (the people of California) as a substantial segment of injured consumers of refined petroleum products. The California plan was thus found to satisfy the criteria for a second-stage refund restitutionary program. Accordingly, California's Applications for Refund and Motion for Modification were granted.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Albuquerque Public Schools et al	RF272–88679	07/06/94
Arrow Truck Line, Inc. et al	RF272–82547	07/05/94
Atlantic Richfield Company/Isadore Mann et al	RF304–15030	07/08/94
Chiquita Brands, Inc.	RF272–66406	07/07/94
Davis-Howland Oil Corp.	RF272–92669	07/07/94
Gulf Oil Corporation/City of Atlantic City et al	RF300–21319	07/06/94
Kapco, Inc.	RF272–77435	07/07/94
Fort Hartford Stone Company	RF272–95083	
Texaco Inc./Dale's Texaco South	RF321–7991	07/08/94
South Side Texaco	RF321–13860	
Rowe's Texaco	RF321–13870	
Rich Rotolo's Texaco	RF321–18262	
Texaco Inc./St. Johns Oil Corp. et al	RF321–7209	07/08/94

Dismissals

The following submissions were dismissed:

Name	Case No.
Blanchard's Texaco	RF321–8102
Chambers Texaco	RF321–17138
Floyd Greer's Texaco	RF321–20485
Gonsoulin Energy Corp. and Gonsoulin Industries, Inc..	LEF–0124
Hedges Texaco	RF321–20944
Lester McGuffin's Texaco	RF321–11073
Midland Shell	RF315–8715
Poteet Independent School District.	RF272–83305
Ron's Texaco	RF321–19156

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: September 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–22510 Filed 9–9–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. TM95–1–32–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

September 6, 1994

Take notice that on August 31, 1994, Colorado Interstate Gas Company (CIG) filed Seventh Revised Sheet No. 11 of its FERC Gas Tariff, First Revised Volume No. 1, reflecting an increase in the fuel reimbursement percentage for Lost, Unaccounted-For and Other Fuel Gas from 0.78% to 0.81%, reflecting a decrease in the fuel reimbursement percentage for Transportation Fuel Gas from 1.98% to 1.92%, and reflecting a decrease in the fuel reimbursement percentage for Storage Fuel Gas from 1.95% to 1.46% effective October 1, 1994.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies, and that the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

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, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214 and 285.211). All such petitions or protests should be filed on or before September 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22409 Filed 9–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–382–000]

Colorado Interstate Gas Company; Notice of Filing of Account No. 191 Direct Billing

September 6, 1994.

Take notice that on August 31, 1994, in compliance with the Federal Energy Regulatory Commission's ("Commission") order issued March 21, 1994 in Docket No. RP94–35–003 et al. and pursuant to Article 21.2 of the General Terms and Conditions of First Revised Volume No. 1 of Colorado Interstate Gas Company's (CIG's) FERC Gas Tariff (Substitute First Revised Sheet No. 338), CIG submitted a limited filing under Section 4 of the Natural Gas Act (NGA) for authority to direct bill its jurisdictional sales customers the balance in CIG's Account No. 191 remaining as of June 30, 1994, as adjusted. This filing details the activity during the nine-month adjustment period from October 1, 1993 through June 30, 1994. CIG submitted for filing Second Revised Sheet No. 14. CIG requests that this proposed tariff sheet be made effective on October 1, 1994. Following Commission approval, CIG will direct bill its jurisdictional sales customers $1,179,516.

CIG states that copies of this filing have been served on parties to the proceeding, and the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

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, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before September 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22412 Filed 9–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–99–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 1994.

Take notice on August 31, 1994, Kern River Gas Transmission Company (Kern River) filed Second Revised Sheets Nos. 5 and 6 to First Revised Volume No. 1 of Kern River's FERC Gas Tariff, to become effective on October 1, 1994.

Kern River states that the purpose of this filing is to establish pursuant to § 154.38(d)(6)(i) of the Commission's regulations a volumetric/usage rate surcharge of $0.0024 per Mcf applicable to service under all of Kern River's firm and interruptible transportation rate schedules for the period October 1, 1994 through September 30, 1995 (ACA Surcharge). This ACA Surcharge will recover the charge assessed on Kern River by the Commission for 1994 pursuant to Part 382 of the Commission's regulations.

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 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22407 Filed 9–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1460–000]

Louisville Gas & Electric Company; Notice of Filing

September 6, 1994.

Take notice that on July 25, 1994, Louisville Gas and Electric Company (LG&E) tendered for filing an amendment to its July 15, 1994 filing in the above-referenced docket.

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 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on

file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22411 Filed 9–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–37–000]

Northwest Pipeline Corporation; Notice of Proposed Change In FERC Gas Tariff

September 6, 1994.

Take notice that on August 31, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff the following tariff sheets with a proposed effective date of October 1, 1994:

Third Revised Volume No. 1

Second Revised Substitute Third Revised Sheet No. 5

First Revised Substitute Third Revised Sheet No. 8

Original Volume No. 2

Eighteenth Revised Sheet No. 2.2

Northwest states that the purpose of this filing is to update Northwest's tariff to reflect the Commission approved Annual Charge Adjustment ("ACA") factor of .24¢ per Mcf to be effective for the twelve-month period beginning October 1, 1994. The ACA surcharge unit equates to .23¢ per MMBtu based on a system average of 1,038 Btus per cubic foot of gas and is a reduction of .02¢ per MMBtu from Northwest's current ACA surcharge of .25¢ per MMBtu.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and upon affected state regulatory commissions.

Any person desiring to be heard or 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 §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22408 Filed 9–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1499–000]

Southwestern Power Electric Company; Notice of Filing

September 6, 1994.

Take notice that on August 31, 1994, Southwestern Power Electric Company tendered for filing an amendment to its July 28, 1994 filing in the above-referenced docket.

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, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22410 Filed 9–9–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00388; FRL–4909–3]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality & Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal will hold a 2–day meeting, beginning on Thursday, September 29, 1994, and ending on Friday, September 30, 1994. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG Working Committee on Water Quality and Pesticide Disposal will meet for a closed session for SFIREG members' orientation, on Thursday, September 29, 1994, from 8:30 a.m. to 9:30 a.m., then the public meeting will be from 10:00 a.m. to 5:00 p.m., and Friday, September 30. 1994, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at: The DoubleTree Hotel, National Airport - Crystal City, 300 Army-Navy Drive, Arlington, Virginia 22202, 703–892–4100.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1109, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–305–7164.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Water Quality and Pesticide Disposal includes the following:

1. Reports from the SFIREG working committee members on state water quality and pesticide disposal projects.
2. Status of acetochlor registration.
3. Discussion of EPA protocols on prospective studies.
4. Discussion of EPA position on pesticide metabolites in ground water.
5. Status of waste pesticide pickup in the States.
6. Other topics as appropriate.

List of Subjects

Enviornmental protection.

Dated: August 30, 1994.

Allan S. Abramson,

Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 94–22445 Filed 9–9–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–300347A; FRL–4910–6]

Statement of Policy for Termiticide Labeling Revision; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Extension of public comment period.

SUMMARY: EPA is extending the comment period on a proposed policy for revised termiticide labeling for soil-applied termiticides and most other termiticides, except fumigant-type termiticides such as sulfuryl fluoride

and nitrogen. EPA is extending the public comment period for that proposed policy for 60 days, from September 12, 1994, to November 14, 1994.

DATES: Written comments, identified by the document number [OPP-300347A], must be received on or before November 14, 1994.

ADDRESSES: Submit written comments to: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT BY MAIL: Harvey L. Warnick, Environmental Protection Agency, Office of Pesticide Programs, Registration Division, Insecticide-Rodenticide Branch (7505C), 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 208, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-5200.

SUPPLEMENTARY INFORMATION: EPA has developed a draft PR Notice setting forth proposed policy regarding termiticide labeling and longevity of termiticide treatments, which was made available for comment in the **Federal Register** of July 27, 1994 (59 FR 38172). EPA has received requests to extend the comment period to give persons interested in commenting on the numerous issues in the proposed policy more time to draft thorough comments. Therefore, EPA is extending the public comment period for its proposed statement of policy regarding termiticide labeling for 60 days, from September 12, 1994, to November 14, 1994.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 6, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–22441 Filed 9–7–94; 12:20 pm]

BILLING CODE 6560–50–F

EXPORT-IMPORT BANK

[Public Notice 21]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The proposed form is to be used by commercial banks and other lenders as well as U.S. exporters in applying for guarantees on working capital loans advanced by the lenders to U.S. exporters.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) *Type of request:* Revised.
(2) *Number of forms submitted:* One.
(3) *Form Number:*
EIB 84–1 (Rev. 5/92)
SAB Form 4EX (Rev. 7/91).
(4) *Title of information collection:*
EIB 84–1 (Rev. 5/92)
SBA Form 4EX (Rev. 7/91)
U.S. Small Business Administration
Export-Import Bank of the United States
Joint Application for Working Capital Guarantee
(5) *Frequency of use:* Upon application for guarantees on working capital loans advanced by the lenders to U.S. exporters.
(6) *Respondents:* Commercial banks and other lenders, as well as U.S. exporters throughout the United States.
(7) *Estimated total number of annual responses:* 200
(8) *Estimated total number of hours needed to fill out the form:* 400.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Tamzen C. Reitan, Agency Clearance Officer (202) 566–8900. Comments and questions should be directed to Mr. Jefferson Hill, Office of Management and Budget, Information and Regulatory Affairs, Room 3235, New Executive Office Building, Washington, D.C. 20503, (202) 395–7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: August 26, 1994.

Tamzen C. Reitan,

Agency Clearance Officer.

[FR Doc. 94–22390 Filed 9–9–94; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

September 8, 1994.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 418–0214. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561.

Please note: The Commission has requested expedited OMB review of this item by September 14, 1994, under the provisions of 5 CFR 1320.18.

OMB Number: None.
Title: Interactive Video and Data Service (IVDS) Section 308(b) Letter.
Action: New collection.
Respondents: Individuals or households and businesses or other for-profit (including small businesses).
Frequency of Response: One time reporting requirement.
Estimated Annual Burden: 50 responses; 2 hours average burden per response; 100 hours total annual burden.
Needs and Uses: The collection of information contained in the Interactive Video and Data Service (IVDS) Section 308(b) letter is needed to determine the status of an applicant in the FCC auction for IVDS. A copy of the letter follows. The information is used by the FCC to determine ownership interests and status as a

small business, a woman-owned entity, and/or a minority-owned entity, as certified prior to the IVDS auction. If this information was not available the results of the IVDS auction may be compromised by permitting unqualified applicants to receive preferences authorized for certain designated entities. The information is also due to the fact that the IVDS auction will set a precedent for future auctions is imperative that the integrity of the auction process be ensured.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

In Reply Refer to: 7230–D/1700C1

Dear Sir or Madam: You filed an application (Form 175) to participate in the Commission's auction for Interactive Video and Data Service (IVDS) system licenses. Pursuant to Section 308(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 308(b), we are requesting additional information from you regarding your application. *See also* 47 C.F.R. § 1.65(a). In particular, we are interested in information pertaining to ownership interests and to your status as a small business, a woman-owned entity, and/or a minority-owned entity, as certified to on your Form 175.

You are requested to submit the following information on or before October 20, 1994;

1. Disclose the ownership of the applicant by submitting a list of the names, addresses, citizenship, position held (officers and directors), and principal business of (a) all officers and directors and (b) any person or entity holding any ownership interest in the applicant, including, but not limited to, partnership interests, stock, warrants, options, or any other instrument evidencing a present or future ownership interest in the applicant (disclose the amounts and percentages held). If the applicant is a partnership or joint venture, submit a signed and dated copy of the partnership or joint venture agreement. If the applicant is a corporation, submit copies of its articles of incorporation, bylaws, and any other organizational documents.

2. Submit a list of all affiliates of the applicant not disclosed in response to Question 1. An individual or entity is an affiliate of the applicant if such individual or entity (i) directly or indirectly controls or has the power to control the applicant, or (ii) is directly or indirectly controlled by the applicant, or (iii) is directly or indirectly controlled by a third party or parties that also controls or has the power to control the applicant.

3. Does the applicant or any person or entity listed in response to Question 1 or 2 have any ownership interest in or connection with any other IVDS applicant or licensee? If so, disclose fully the nature and extent of such interest or connection, the file number (or other identifier) of such application, and the location of such IVDS system or proposed system.

4. Are any of the individuals listed in response to Questions 1 and 2 related (as husband, wife, father, mother, brother, sister, son, or daughter) to each other? Does any member of the immediate family (*i.e.*, husband, wife, father, mother, brother, sister, son, or daughter) of any individual listed in response to Questions 1 and 2 have any interest in or connection with any other IVDS applicant or licensee? If the answer to either or both of these questions is yes, disclose fully, concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number (or other identifier) of such application, and the location of such IVDS system or proposed system.

5. If the applicant certified on the application that it is a small business, submit the following supporting documents (a small business is an entity that, together with its affiliates, has no more than $6 million net worth and, after federal income taxes, excluding any carry over losses, has no more than $2 million in annual profits each year for the previous two years):

a. a statement disclosing the net worth of the applicant and its affiliates at the time the application was filed and the applicant's (including affiliates) current net worth.

b. the most recent balance sheet(s) for the applicant and its affiliates (submit an audited balance sheet, if available).

c. a complete copy of the Federal income tax return(s) for the applicant and its affiliates for the past two years (calendar or fiscal).

d. a complete copy of the State income tax return(s) for the applicant and its affiliates for the past two years (calendar or fiscal).

6. If the applicant claims a preference as a business owned by members of a minority group(s) and/or women, indicate the gender of the individuals listed in response to Questions 1 and 2, and indicate the minority group(s) of which the individuals listed in response to Questions 1 and 2 are members. The applicant must also describe how women and/or minorities exercise *de jure* and *de facto* control of the applicant. A business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens have at least 50.1 percent equity ownership and 50.1 percent controlling interest in the applicant. For applicants that are limited partnerships, the general partner either must be a minority and/or woman (or minorities and/or women) who is a U.S. citizen and owns at least 50.1 percent of the partnership equity, or an equity that is 100 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully-diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised.

7. If the applicant was a high bidder for one or more IVDS licenses (*i.e.*, signed a high bid acknowledgment form) and did not submit the required down payment by August 8, 1994, the deadline for payment specified by the Commission, explain the reason(s) for the applicant's failure to tender its down payment.

Unless otherwise specified above, the information submitted must be current as of the filing date of the applicant's Form 175 application. Any changes since that date shall also be disclosed.

False statements in response to this letter would be in violation of Title 18, United States Code, Section 1001, and could result in criminal penalties. Direct your response to: Chief, Private Radio Bureau, Federal Communications Commission, Washington, DC. 20554.

Sincerely,

Ralph A. Haller,

Chief, Private Radio Bureau.

Notice to Individuals Required by the Privacy Act of 1974 and the Paperwork Reduction Act

The information requested in this letter is authorized by the Communications Act of 1934, as amended. The Commission will use the information to determine your status as an applicant. It may become necessary to refer the information submitted to another government agency. All information provided in this letter will be available for public inspection. A response is requested.

Public reporting burden for this information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data needed, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding this burden estimate or any other aspect of this request for information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Washington, DC. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0000), Washington, DC. 20503.

The foregoing notice is required by the Privacy Act of 1974, P.L. 93–579, December 31, 1975, 5 U.S.C. 522a(e)(3) and the Paperwork Reduction Act of 1980, 96–511, December 11, 1980, 47 U.S.C. 3507.

[FR Doc. 94–22580 Filed 9–9–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Solicitation of Comments on the National Mitigation Strategy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with Administrative Procedures Act, 5 U.S.C. 552b, FEMA announces the following meetings:

Name: National Mitigation Strategy Forums.

Dates of Meetings: September 20, 27, and 28, 1994.

Place: September 20, 1994: Boston, Massachusetts, The Kennedy Library, Smith Hall, Columbia Point.

September 27, 1994: Boulder, Colorado, Natural Hazards Center of the University of Colorado, The Forum, University Memorial Center.

September 28, 1994: Houston, Texas, University of Houston, The Dallas Perimeter.

Time: September 20, 1994 9:00 a.m.–noon; September 27, 1994 9:00 a.m.–noon; September 28, 1994 1:30 p.m.–4:30 p.m.

Proposed Agenda: FEMA staff will make a presentation on the National Mitigation Strategy and will solicit comments and questions from the attendees.

Supplementary Information: In addition to the invitees, the meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact FEMA before September 16, by telephoning Cynthia Harris on (800) 789–7887 or writing: Mitigation Forums, Federal Emergency Management Agency, 500 C Street S.W., Room 417, Washington, DC 20472.

A transcript of the meeting will be prepared and will be available for public viewing at Federal Emergency Management Agency, Mitigation Directorate, 500 C Street SW., Room 417, Washington, DC 20472.

Dated: September 6, 1994.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–22438 Filed 9–9–94; 8:45 am]

BILLING CODE 6718–01–P

Open Meeting, Solicitation of Comments on the National Mitigation Strategy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with Administrative Procedures Act, 5 U.S.C. 552b, FEMA announces the following meetings:

Name: National Mitigation Strategy Forums.

Dates of Meetings: October 12, 13, 20, and 25, 1994.

Place: October 12, 1994: Kansas City, Missouri, University of Missouri, Pierson Auditorium, 59th and Rockhill.

October 13, 1994: Chicago, Illinois, University of Illinois, Chicago Circle Center, 750 South Austin.

October 20, 1994: Berkeley, California, University of California, Sibley Auditorium, Bechtel Engineering Center.

October 25, 1994: Seattle, Washington, Seattle Center, Olympic Room, Northwest Room Building.

Time: October 12, 1994 9:00 a.m.–noon; October 13, 1994 9:00 a.m.–noon; October 20, 1994 1:30 p.m.–4:30 p.m.; October 25, 1994 9:00 a.m.–noon.

Proposed Agenda: FEMA staff will make a presentation on the National Mitigation Strategy and will solicit comments and questions from the attendees.

Supplementary Information: In addition to the invitees, the meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact FEMA before October 5, by telephoning Cynthia Harris on (800) 789–7887 or writing: Mitigation Forums, Federal Emergency Management Agency, 500 C Street S.W., Room 417, Washington, DC 20472.

A transcript of the meeting will be prepared and will be available for public viewing at Federal Emergency Management Agency, Mitigation Directorate, 500 C Street SW., Room 417, Washington, DC 20472.

Dated: September 6, 1994.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–22439 Filed 9–9–94; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–002744–083.

Title: West Coast of South America Agreement.

Parties:

A.P. Moller-Maersk
Compania Chilena de Navigacion Interoceania, S.A.
Compania Sud Americana de Vapores, S.A.
Crowley American Transport, Inc.
Flota Mercante Grancolombiana, S.A.
Lykes Bros. Steamship Co., Inc.
Nedlloyd Lijnen, B.V.
Sea-Land Service, Inc.
South Pacific Shipping Company Ltd.

Synopsis: The proposed amendment restates the basic agreement and incorporates two new revisions. Article 10 is amended to specify that Members of the Agreement may elect to be policed under a filed and effective self-policing agreement which covers the same trade as the Agreement, and Article 14 is amended to clarify the construction of through intermodal rates under service contracts.

Dated: September 6, 1994.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 94–22397 Filed 9–9–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Community First Financial Group, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than October 7, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Community First Financial Group, Inc., English, Indiana; to acquire up to an additional 20.90 percent, for a total of 52.48 percent, of the voting shares of Peoples Trust Bank Company, Corydon, Indiana.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22472 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

Enterprise Bancorp, Inc.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 94-21211) published on page 44426 of the issue for Monday, August 29, 1994.

Under the Federal Reserve Bank of Richmond heading, the entry for Enterprise Bancorp, Inc., is revised to read as follows:

1. Enterprise Bancorp, Inc., Landover, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Enterprise Bank, Landover, Maryland.

Comments on this application must be received by September 12, 1994.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22473 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

Pathfinder Bancorp, M.H.C., 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 October 6, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Pathfinder Bancorp, M.H.C., Oswego, New York; to become a bank holding company by acquiring at least a majority of the voting shares of Oswego City Savings Bank, Oswego, New York.

2. Saban, S.A., Marina Bay, Gibralter; to acquire up to 2.45 percent of the outstanding voting shares of Republic New York Corporation, New York, New York. In addition Republic New York Corporation Holdings Limited, a wholly owned subsidiary of Saban, S.A., to acquire directly up to 1.32 percent of the outstanding shares of Republic New York Corporation. As a result, Saban, S.A. would control, directly and indirectly, up to approximately 31 percent of the outstanding shares of Republic New York Corporation when the purchases are combined with existing holdings, and thereby indirectly acquire Republic National Bank of New York, New York, New York, Republic Bank for Savings, New York, New York, and Republic Bank California National Association, Beverly Hills, California.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. FNB Bancshares, Inc., Brooksville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Brooksville, Brooksville, Kentucky.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mercantile Bancorporation, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Wedge Bank, Alton, Illinois.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with Minowa Bancshares, Inc., Decorah, Iowa, and thereby indirectly acquire Decorah State Bank, Decorah, Iowa; First National Bank of Mabel, Mabel, Minnesota; and Minnesota Bank, N.A., Caledonia, Minnesota.

Board of Governors of the Federal Reserve System, September 6, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-22420 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

Pikeville National Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Pikeville National Corporation, Lexington, Kentucky; to engage *de novo* through its subsidiary KenTrust Capital Management, Inc., Lexington, Kentucky, in investment or financial advisory activities, pursuant to § 225.25(b)(4) of the Board's Regulation Y; providing management consulting advice to non-affiliated bank and non-bank depository institutions, pursuant to § 225.25(b)(11) of the Board's Regulation Y; providing

brokerage services, related securities credit activities, pursuant to § 225.25(b)(15) of the Board's Regulation Y; underwriting and dealing in bank-eligible securities, pursuant to § 225.25(b)(16) of the Board's Regulation Y; providing foreign exchange advisory and transactional services, pursuant to § 225.25(b)(17) of the Board's Regulation Y; and making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y. In connection with the above-captioned activities, Application also proposes to offer advice on and/or conduct FASB 115 monitoring and FFIEC testing of securities; asset/liability structuring and monitoring; GAP and interest rate analysis; and investment policy review, pursuant to § 225.25(b)(11) of the Board's Regulation Y.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. International Bancshares Corporation, Laredo, Texas; to engage *de novo* in the activity of making loans to certain of its executive officers, directors, affiliates and principal shareholders and to certain executive officers and directors and their related interests of its wholly-owned subsidiary banks, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for this activity is the State of Texas.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22474 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

PNC Bank Corp., 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 October 7, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. PNC Bank Corp., Pittsburgh, Pennsylvania, and PNC Bancorp, Inc., Wilmington, Delaware; to acquire Brentwood Financial Corporation, Cincinnati, Ohio, and thereby indirectly acquire The Brentwood Savings Association, Cincinnati, Ohio, and thereby engage in permissible thrift activities pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CNB Bancshares, Inc., Evansville, Indiana (Applicant); to acquire King City Federal Savings Bank, Mount Vernon, Illinois (Thrift), and thereby engage in acquiring, owning, controlling and operating as a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. Applicant also has applied for Thrift or its wholly-owned subsidiary, King City Financial Services Corp. (KCFS), an Illinois corporation to (1) act as agent or broker for insurance (including home mortgage redemption insurance) that is directly related to an extension of credit by Applicant, Thrift, or any other subsidiary of Applicant and that is limited to assuring the repayment of the outstanding balance due on the extension of credit in the event of death, disability or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; (2) act as agent or broker for insurance directly related to an extension of credit by a finance company that is a subsidiary of a bank holding company, subject to § 225.25(b)(8)(ii) of the Board's Regulation Y; (3) provide securities brokerage services, related securities credit activities pursuant the Board's Regulations G and T, and incidental activities of the type enumerated in § 225.25(b)(15) of the Board's Regulation Y. Any such activities will be restricted to buying and selling securities solely as agent for the account of customers and will not include securities underwriting or dealing; (4) provide the foregoing services in combination with investment advisory services permissible under § 225.25(b)(4), subject to the limitations contained in § 225.25(b)(15)(ii); and (5) issue and sell retail money orders and similar consumer-type payment instruments having a face vale of not more than $1,000; to sell U.S. savings bonds; and the issuance and sale of travelers checks, pursuant to § 225.25(b)(12) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22475 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

Robert Sidney Ross; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice 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 indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 3, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Robert Sidney Ross, Ocilla, Georgia; to acquire an additional 2.04 percent for a total of 10.47 percent, of the voting shares of Colony Bankcorp, Inc.,

Fitzgerald, Georgia, and thereby indirectly acquire Bank of Fitzgerald, Fitzgerald, Georgia.

Board of Governors of the Federal Reserve System, September 6, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–22421 Filed 9–9–94; 8:45 am]

BILLING CODE 6210–01–F

Stearns Financial Services, Inc., ESOP; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these 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 October 7, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Stearns Financial Services, Inc., ESOP, Albany, Minnesota; to become a bank holding company by acquiring 30.00 percent of the voting shares of Stearns Financial Services, Inc. Albany, Minnesota.

In connection with this application, Applicant also has applied to engage in general insurance agency activities in a town with less than 5, 000 in population in accordance with § 225.25(b)(8)(iii) of the Board's Regulation Y. The geographic scope for these activities are the cities of Canby, Albany, and Evansville, Minnesota.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22476 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

Lynda C. Thompson; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 94-21210) published on page 44426 of the issue for Monday, August 29, 1994.

Under the Federal Reserve Bank of Atlanta heading, the entry for Lynda C. Thompson is revised to read as follows:

1. Lynda C. Thompson, Duluth, Georgia; to retain personally 9.8 percent and as trustee for the American Bancshares, Inc., ESOP, Marietta, Georgia, 2.4 percent of the voting shares of American Bancshares, Inc., Marietta, Georgia, and thereby indirectly control Cobb American Bank & Trust Company, Marietta, Georgia. Notificant also proposes to acquire an additional 1.4 percent in her personal capacity and 3.0 as trustee, of American Bancshares, Inc., for a total of 16.6 percent.

Comments on this application must be received by September 12, 1994.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22477 Filed 9-9-94; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C–3514]

Amoco Chemical Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, two Delaware corporations from misrepresenting the extent to which any polystyrene cup, plate, and other food service product or packaging material is capable of being recycled or the extent to which recycling collection programs are available, and from representing that such products offer any environmental benefit unless the respondents possess competent and reliable scientific evidence that substantiates the claim.

DATES: Complaint and Order issued August 9, 1994.[1]

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Timothy Hughes, FTC/Chicago Regional Office, 55 East Monroe St., Suite 1437, Chicago, IL. 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: On Friday, May 27, 1994, there was published in the **Federal Register**, 59 FR 27558, a proposed consent agreement with analysis In the Matter of Amoco Chemical Company, *et al.*, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 94–22431 Filed 9–9–94; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[File No. 941 0081]

Rite Aid Corporation; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, Rite Aid, in conjunction with its proposed acquisition of LaVerdiere's Enterprises, Inc., to divest the pharmacy assets either in its own Rite Aid stores, or in the LaVerdiere's stores it will acquire, in there specified cities, to a Commission-approved entity within 12 months of the order, and would require the respondent for a period of ten years, to obtain Commission approval before acquiring any assets or stocks in any entity engaged in the business of selling prescription drugs of retail outlets in the three designated cities.

DATES: Comments must be received on or before November 14, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ann Malester or Catharine Moscatelli, FTC/S–2224, Washington, D.C. 20580. (202) 326–2682 or 326–2749.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of: Rite Aid Corporation, a corporation; agreement containing Consent Order.

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition of all of the voting stock of LaVerdiere's Enterprises, Inc. ("LEI") by Rite Aid Corporation ("Rite Aid"), and it is now appearing that Rite Aid, hereinafter sometimes referred to as "Proposed Respondent," is willing to enter into an agreement containing an order ("Agreement") to divest certain assets, and to cease and desist from making certain acquisitions, and providing for certain other relief:

It is hereby agreed by and between Proposed Respondent, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Rite Aid is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 30 Hunter Lane, Camp Hill, Pennsylvania 17011.

2. Proposed Respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed Respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

4. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to the Proposed Respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following Order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to Order to Proposed Respondent's address as stated in this Agreement shall constitute service. Proposed Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Proposed Respondent has read the proposed Complaint and Order contemplated hereby. Proposed Respondent understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that, as used in this Order, the following definitions shall apply:

A. "Rite Aid" means Rite Aid Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by Rite Aid, and their directors, officers, employees, agents, representatives, and their successors and assigns.

B. "Commission" means the Federal Trade Commission.

C. "Acquisition" means the acquisition of all the voting stock of LaVerdiere's Enterprises, Inc. ("LEI") by Respondent Rite Aid.

D. "Acquirer" means the party or parties to whom Respondent Rite Aid divests the assets herein ordered to be divested.

E. "Prescription drugs" means ethical drugs available at retail only by prescription.

F. "LEI Pharmacy Business" means LEI's business of selling prescription

drugs at any of the retail stores listed in Paragraph I.(J). of this Order, but does not include LEI's business of selling other products in those retail stores.

G. "LEI Pharmacy Assets" means all assets constituting the LEI Pharmacy Business, excluding those assets pertaining to the LEI trade names, trade dress, trade marks and service marks, and including but not limited to:

1. Leases, at the Acquirer's option;

2. zoning approvals and registrations, at the Acquirer's option;

3. books, records, manuals, and operations reports relating to the LEI Pharmacy Business, but only if the divestiture is to an Acquirer that does not already operate a pharmacy in any location;

4. inventory instructions, or, at the Acquirer's option, lists of stock keeping units ("SKUs") *i.e.*, all forms, package sizes and other units in which prescription drugs are sold and which are used in records of sales and inventories;

5. lists of all prescription drug customers, including but not limited to third party insurers, including all files of names, addresses, and telephone numbers of the individual customer contacts, the unit and dollar amounts of sales, by product, to each customer, and store profit and loss statement(s);

6. all names and addresses of prescription drug manufacturers and distributors that supply to LEI or have supplied to LEI within the six months preceding the date this Order becomes final; and

7. goodwill, tangible and intangible, utilized in the sale of prescription drugs.

H. "Rite Aid Pharmacy Business" means Rite Aid's business of selling prescription drugs at any of the retail stores listed in Paragraph I.(J). of this Order, but does not include Rite Aid's business of selling other products in those retail stores.

I. "Rite Aid Pharmacy Assets" means all assets constituting the Rite Aid Pharmacy Business, excluding those assets pertaining to the Rite Aid trade names, trade dress, trade marks and service marks, and including but not limited to:

1. Leases, at the Acquirer's option;

2. zoning approvals and registrations, at the Acquirer's option;

3. books, records, manuals, and operations reports, relating to the Rite Aid Pharmacy Business, but only if the divestiture is to an Acquirer that does not already operate a pharmacy in any location;

4. inventory instructions, or, at the Acquirer's option, lists of SKUs, *i.e.*, all forms, package sizes and other units in which prescription drugs are sold and which are used in records of sales and inventories;

5. lists of all prescription drug customers, including but not limited to third party insurers, including all files of names, addresses, and telephone numbers of the individual customer contacts, the unit and dollar amounts of sales, by product, to each customer, and store profit and loss statement(s);

6. all names and addresses of prescription drug manufacturers and distributors that supply to Rite Aid or have supplied to Rite Aid within the six months preceding the date this Order becomes final; and

7. goodwill, tangible and intangible, utilized in the sale of prescription drugs.

J. "Assets To Be Divested" means either the LEI Pharmacy Assets constituting the LEI Pharmacy Business or the Rite Aid Pharmacy Assets constituting the Rite Aid Pharmacy Business in the following cities or towns:

1. Bucksport, Maine;

2. Lincoln, Maine; and

3. Berlin, New Hampshire.

K. "Competitiveness, viability and marketability" of the Assets To Be Divested mean that Respondent shall continue the operation of the Assets To Be Divested in the ordinary course of business without material change or alteration that would adversely affect the value or goodwill of the Assets To Be Divested.

II

It is further ordered that:

A. Respondent shall divest, absolutely and in good faith, within twelve (12) months of the date this Order becomes final, the Assets To Be Divested.

B. Respondent shall divest the Assets To Be Divested only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of the Assets To Be Divested is to ensure the continued use of the Assets To Be Divested as ongoing viable pharmacies engaged in the same businesses in which the Assets To Be Divested are presently employed and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint.

C. Pending divestiture of the Assets To Be Divested, Respondent shall take such actions as are necessary to maintain the competitiveness, viability and marketability of the Assets To Be Divested and to prevent the destruction, removal, wasting, deterioration, or impairment of any Assets To Be Divested except for ordinary wear and tear.

D. If a divestiture includes a lease of physical space, and if pursuant to that lease Respondent through default of the lease or otherwise regains possession of the space, Respondent must notify the Commission of such repossession within thirty (30) days and must redivest such assets or interest pursuant to Paragraph II of this Order within six (6) months of such repossession. If Respondent has not redivested such assets or interest pursuant to Paragraph II of this Order within six (6) months of such repossession, the provisions of Paragraph III shall apply to these assets.

III

It is further ordered that:

A. If Respondent has not divested, absolutely and in good faith and with the Commission's prior approval, the Assets To Be Divested within twelve (12) months of the date this Order becomes final, the Commission may appoint a trustee to divest the Assets To Be Divested. In the event the Commission or the Attorney General brings an action pursuant to § 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, Respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondent to comply with this Order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this Order, Respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondent of the identity of any proposed trustee, Respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Assets To Be Divested.

3. Within ten (10) days after appointment of the trustee, Respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this Order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed trustee by the court.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Assets To Be Divested, or to any other relevant information, as the trustee may reasonably request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission subject to Respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this Order. *Provided*, however, if the trustee receives bona fide offers from more than one acquirer, and if the Commission determines to approve more than one such acquirer, the trustee shall divest to the acquirer or acquirers selected by Respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of Respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of Respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Respondent and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Assets To Be Divested.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, and Respondent shall either defend against such claims or pay the trustee's expenses, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of any such claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this Order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

11. The trustee shall have no obligation or authority to operate or maintain the Assets To Be Divested.

12. The trustee shall report in writing to Respondent and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that, for a period of ten (10) years from the date this Order becomes final, Respondent shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise: (A) Acquire any stock, share capital, equity, leasehold or other interest in any concern, corporate or non-corporate, where such concern within the six months preceding such acquisition engaged in the business of selling prescription drugs at retail stores located in any of the cities or towns listed in Paragraph I.(J). of this Order; or (B) Acquire any assets used, within six months of the offer to acquire, for (and still suitable for use for) the business of selling prescription drugs at retail stores located in any of the cities or towns listed in Paragraph I.(J). of this Order *Provided, however*, that these prohibitions shall not relate to the construction of new facilities.

V

It is further ordered that:

A. Within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until Respondent has fully complied with the provisions of Paragraph II. and III. of this Order, Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply is complying, and has complied with those provisions. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraph II and III of the Order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondent also shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this Order becomes final, annually thereafter for the next nine (9) years on the anniversary of the date this Order became final, and at such other times as the Commission may require, Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph IV. of this Order.

VI

It is further ordered that Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may

affect compliance obligations arising out of the Order.

VII

It is further ordered that, for the purpose of determining or securing compliance with this Order upon reasonable notice and subject to any legally recognized privilege, Respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondent relating to any matters contained in this consent order; and

B. Upon five (5) days notice to Respondent, and without restraint or interference from it, to interview officers, directors, or employees of Respondent, who may have counsel present, regarding such matters.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted provisionally an agreement containing a proposed Consent Order from Rite Aid Corporation ("Rite Aid") under which Rite Aid would divest pharmacy assets in three (3) geographic locations in northern New England where they face limited competition. Rite Aid operates the nation's largest drug store chain under the name Rite Aid Discount Pharmacy.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested person. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

On April 30, 1994, Rite Aid and LaVerdiere's Enterprises, Inc. ("LEI") entered into an agreement whereby Rite Aid would acquire all of the stock of LEI. The proposed complaint alleges that the proposed acquisition, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, in the market for the sale of prescription drugs in retail stores in the following towns: Bucksport, Maine; Lincoln, Maine; and Berlin, New Hampshire (hereinafter "relevant geographic area"). The proposed Consent Order would remedy the alleged violation by maintaining the current number of competitors in the relevant geographic areas where Rite Aid and LEI are direct competitors and here they face limited competition.

The proposed Consent Order provides that within one (1) year of the Order becoming final, Rite Aid shall divest all assets related to the retail sale of prescription drugs in Rite Aid or LEI retail stores in the relevant geographic areas. The divestiture of the Rite Aid or LEI pharmacy business in the relevant geographic areas shall be made only to an acquirer or acquirers that receive prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The assets shall be divested to an eligible acquirer or acquirers that will operate a pharmacy business in the relevant geographic areas. Eligible acquirers in each relevant geographic area include, but are not limited to: Owners of retail stores that currently do not operate a pharmacy in that relevant geographic area; persons previously employed by Rite Aid or LEI; or persons who will open a new retail store. In the event that Rite Aid has not divested the Rite Aid or LEI pharmacy assets in the relevant geographic areas in one (1) year, the proposed Consent Order provides that Rite Aid shall consent to the appointment by the Commission of a trustee to divest the pharmacy assets.

Under the provisions of the Consent Order, Rite Aid is also required to provide to the Commission a report of its compliance with the divestiture provisions of the Order within sixty (60) days following the date this Order becomes final, and every sixty (60) days thereafter until Rite Aid has completely divested its interest in the assets related to the retail sale of prescription drugs in the relevant geographic areas. The proposed Order will also prohibit Rite Aid, for a period of ten (10) years, from acquiring, without Commission approval, any stock in any concern engaged in the business of selling prescription drugs at retail in the relevant geographic areas or any assets used for the business of selling prescription drugs at retail in the relevant geographic areas.

One year from the date the Order becomes final and annually thereafter for nine (9) years, Rite Aid will be required to provide to the Commission a report of their compliance with the Consent Order. The Consent Order also requires Rite Aid to notify the Commission at least thirty (30) days prior to any change in the structure of Rite Aid resulting in the emergence of a successor.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–22433 Filed 9–9–94; 8:45 am]

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[File No. 941 0085]

Roche Holding Ltd., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, Roche Holding Ltd. to acquire Syntex Corporation and its subsidiary, Syva, and would require Roche to divest Syva's drugs of abuse testing (DAT) business within 12 months to a Commission-approved buyer, to operate the Syva assets separately from its own DAT business pending the divestiture, and to obtain, for ten years, prior Commission approval before acquiring assets or interests of any entity involved in the market for drugs of abuse reagent products.

DATES: Comments must be received on or before November 14, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Claudia Higgins or Ann Malester, FTC/S–2224, Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of: Roche Holding Ltd, a corporation, and Syntex Corporation, a

corporation; Agreement Containing Consent Order.

The Federal Trade Commission ("Commission"), having initiated an investigation of the proposed acquisition by Roche Capital Corporation, a Panamanian corporation and an indirect wholly-owned subsidiary of Roche Holding Ltd, a Swiss corporation (collectively referred to as "Roche"), of Syntex Corporation ("Syntex"), and it now appearing that Roche and Syntex, hereinafter sometimes referred to as "Proposed Respondents," are willing to enter into an agreement containing an order to divest certain assets and cease and desist from making certain acquisitions, and providing for certain other relief:

It is hereby agreed by and between Proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Roche Holding Ltd is a corporation organized, existing, and doing business under and by virtue of the laws of Switzerland with its principal executive offices located at Grenzacherstrasse 124, Basel, Switzerland 4002. Hoffmann-La Roche Inc., an indirect wholly-owned subsidiary of Roche Holding Ltd, is located at 340 Kingsland Street, Nutley, New Jersey 07110.

2. Proposed Respondent Syntex is a corporation, organized, existing, and doing business under and by virtue of the laws of Panama with its principal executive offices located at 3401 Hillview Avenue, Palo Alto, California 94304. Syva Company, an indirect wholly-owned subsidiary of Syntex, is headquartered at 3403 Yerba Buena Road, San Jose, California 95161–9013.

3. Proposed Respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed Respondents waive:

(a) any further procedural steps;

(b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) any claims under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to divest and to cease and desist, in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Proposed Respondents' addresses as stated in this agreement shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed Respondents have read the proposed complaint and order contemplated hereby. Proposed Respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. "Roche" means Roche Holding Ltd, its predecessors, subsidiaries, including without limitation Roche Capital Corporation, divisions, and groups and affiliates controlled by Roche, their directors, officers, employees, agents, and representatives, and their successors and assigns.

B. "Syntex" means Syntex Corporation, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Syntex, their directors, officers, employees, agents, and representatives, and their successors and assigns.

C. "Syva" or "Syva Company" means Syva Company, a Delaware corporation and an indirect wholly-owned subsidiary of Syntex Corporation, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Syva, their directors, officers, employees, agents, and representatives, and their successors and assigns.

D. "Respondents" means Roche and Syntex.

E. "Commission" means the Federal Trade Commission.

F. "Acquisition" means Roche's proposed acquisition of voting securities of Syntex pursuant to the Acquisition Agreement and Plan of Merger dated May 1, 1994.

G. "Patents" means some, all or any part of all U.S. or foreign unexpired patents and patents issued in the future based upon patent applications filed in any country as of August 1, 1994, and all substitutions, continuations, continuations-in-part, divisions, renewals, reissues and extensions based on said patents, the applications therefor, or said patent applications.

H. "Drugs of abuse reagent products" means diagnostic reagent products used for drugs of abuse testing, including without limitation, reagent, control and calibrator products used to test for cannabinoids or marijuana, cocaine and cocaine metabolites, opiates, amphetamines and methamphetamines, phencyclidine, methadone, methaqualone, propoxyphene, barbiturates, benzodiazepine, lysergic acid diethylamide, ethyl alcohol, or other controlled substances for which drugs of abuse testing is conducted.

I. "Syva Business" means all of Syntex's United States rights, title and interest in and to:

(1) drugs of abuse reagent products, including but not limited to, EMIT®, EMIT® II, and all patents, production

technology and know-how related to the manufacture and sale of drugs of abuse reagent products in the United States; and

(2) all of the Syva Company's assets and businesses as further delineated in Schedule A, attached hereto and made a part hereof.

II

It is further ordered that:

A. Roche shall divest, absolutely and in good faith, within twelve (12) months of the date this order becomes final, the Syva Business, and shall also divest such additional ancillary assets and businesses and effect such arrangements as are necessary to assure the marketability, viability, and competitiveness of the Syva Business; provided that Roche is not required to divest any of the Syva assets and businesses identified in Part 2 of Schedule A, if such assets and businesses are not requested by the acquirer.

B. Roche shall divest the Syva Business only to an acquirer that receives the prior approval of the Commission and that has made any necessary notice to or obtained any necessary approval from the FDA to manufacture and sell all of the Syva drugs of abuse reagent products, and only in a manner that has received the prior approval of the Commission. The purpose of the divestiture of the Syva Business is to ensure the continuation of the Syva Business as an ongoing, viable operation, engaged in the same business in which the Syva Business is engaged at the time of the proposed divestitute, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

C. Upon reasonable notice from the acquirer to Respondents, Respondents shall provide such personnel, information, technical assistance, advice and training to the acquirer as is necessary to transfer technology and know-how to assist the acquirer in obtaining any necessary FDA approval for the manufacture and sale of the Syva drugs of abuse reagent products and any other products identified in Schedule A that are acquired pursuant to this order. Such assistance shall include reasonable consultation with knowledgeable employees of Respondents and training at the acquirer's facility for a period of time sufficient to satisfy the acquirer's management that its personnel are appropriately trained in the manufacture of the Syva drugs of abuse reagent products and any other products identified in Schedule A that are acquired pursuant to this order. Respondents shall not charge the acquirer a rate more than their own direct costs for providing such technical assistance.

D. Pending divestiture of the Syva Business, Respondents shall take such actions as are necessary to maintain the viability and marketability of the Syva Business and to prevent the destruction, removal, wasting, deterioration or impairment of any of the Syva Business except for ordinary wear and tear.

III

It is further ordered that:

A. If Roche has not divested, absolutely and in good faith, and with the prior approval of the Commission, the Syva Business within twelve (12) months of the date this order becomes final, to an acquirer that has made any necessary notice to or obtained any necessary approval from the FDA to manufacture and sell Syva drugs of abuse reagent products, the Commission may appoint a trustee to divest the Syva Business.

B. In the event that the Commission or the Attorney General brings an action pursuant to section 5(l) of the Federal Trade Commission Act, 15 U.S.C. section 45(l), or any other statute enforced by the Commission, Roche shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Roche to comply with this order.

C. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. or B. this order, Roche shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Roche, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Roche has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Roche of the identity of any proposed trustee, Roche shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Syva Business.

3. Within ten (10) days after appointment of the trustee, Roche shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.C.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to Syva, or to any other relevant information, as the trustee may request. Roche shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Roche shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Roche shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Roche's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer as set out in Paragraph II of this order, as appropriate; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Roche from among those approved by the Commission. If requested by the trustee or acquirer, Roche shall provide the acquirer(s) with the assistance required by Paragraph II.C. of this order.

7. The trustee shall serve, without bond or other security, at the cost and expense of Roche, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of Roche, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Roche, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Syva Business.

8. Roche shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Syva Business.

12. The trustee shall report in writing to Roche and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that Respondents shall comply with all terms of the Agreement to Hold Separate, attached to this order and made a part hereof as Appendix I. The Agreement to Hold Separate shall continue in effect until Roche has divested all of the Syva Business as required by this order.

V

It is further ordered that, for a period of ten (10) years form the date this order becomes final, Roche shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

(a) acquire more than 1% of the stock, share capital, equity or other interest in any concern, corporate or non-corporate, engaged in at the time of such acquisition, or within the two years preceding such acquisition engaged in, the manufacture or production of drugs of abuse reagent products in the United States; or

(b) acquire any assets used or previously used (and still suitable for use) in the manufacture and production of drugs of abuse reagent products in the United States to which sales of $3 million or more of drugs of abuse reagent products were attributable in the year preceding such acquisition.

Provided, however, that this Paragraph V shall not apply to the acquisition of products or services acquired in the ordinary course of business or to any acquisition of a non-exclusive license to any United States patents or other form of intellectual property (excluding assets of the Syva Business).

VI

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until the Respondents have fully complied with Paragraphs II and III of this order, Roche shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II, III, and IV of this order. Roche shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II, III, and IV of this order, including a description of all substantive contacts or negotiations for the divestiture required by this order, including the identity of all parties contacted. Roche shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestiture.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at such other times as the Commission may require, Roche shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph V of this order.

VII

It is further ordered that, for the purpose of determining or securing compliance with this order, Respondents shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents, relating to any matters contained in this order; and

B. Upon five (5) days' notice to Respondents, and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents. Officers and employees of Respondents whose place of employment is outside the United States shall be made available on reasonable notice.

VIII

It is further ordered that Roche shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

Schedule A

Roche shall divest all of the assets and businesses of the Syva Business pursuant to the terms of this order. The associated assets identified in Paragraph I.*I.* (2) of this order shall include all assets, properties, business and goodwill, tangible and intangible, of the Syva Company in and relating to the development, manufacture, sale, distribution and marketing of drugs of abuse reagent products in the United States, including without limitation, the following:

Part 1

1. All rare reagent inventory (including antibody reagent pools, hapten conjugates, and detection labels), all inventory (finished and work in process), all sources of the antibodies (whether animals or cell lines), immunogens, commodities, cross-

reactants, machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools, and other tangible personal property;

2. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, technical information, management information systems, software, inventions, copyrights, trademarks, trade names, trade secrets, intellectual property, formulations, patents, technology know-how, specifications, designs, drawings, processes, quality assurance and control data, research materials, and information, relating to the manufacture and sale of the drugs of abuse reagent products, including without limitation information relating to FDA approvals and applications for FDA approvals, research and development data, data required under the Good Manufacturing Practices Guidelines, regulatory data packages, process validation, and documentation relating to Drug Enforcement Agency ("DEA") approvals;

3. all rights, title and interest in and results of all research and development efforts of Syntex relating to improvements, developments, and variants of the Syva EMIT, EMIT II, and other drugs of abuse reagent product lines;

4. all rights, title and interest in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors, and consignees;

5. all rights under warranties and guarantees, express of implied;

6. all books, records and files; and

7. all items of prepaid expense.

Part 2

1. All assets, properties, business and goodwill, tangible and intangible, of the Syva Company in and relating primarily to the development, manufacture, sale, distribution and marketing of any in vitro diagnostic products other than drugs of abuse reagent products, including therapeutic drug monitoring reagent products, infectious disease reagent products, endocrine (thyroid) testing reagent products, and reagents used on the VISTA system (e.g., hormone, cancer, anemia, protein, and hepatitis/HIV testing);

2. inventory and storage capacity; and

3. all rigths, title and interest in and to owned or leased real property, together with appurtenances, licenses and permits.

Appendix I

In the Matter of: Roche Holding Ltd, a corporation, and Syntex Corporation, a corporation; agreement to hold separate.

This Agreement to Hold Separate ("Hold Separate") is by and between Roche Holding Ltd ("Roche"), a corporation organized, existing, and doing business under and by virtue of the laws of Switzerland, with its office and principal place of business at Grenzacherstrasse 124, Basel, Switzerland 4002; Syntex Corporation ("Syntex"), a corporation, organized, existing, and doing business under and by virtue of the laws of Panama with its principal place of business located at 3401 Hillview Avenue, Palo Alto, California 94304; and the Federal Trade Commission ("the Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. section 41, *et seq.* (collectively, the "Parties").

Premises

Whereas, on May 1, 1994, Roche entered into an Acquisition Agreement and Plan of Merger with Syntex Corporation ("Syntex") to acquire all the voting stock of Syntex (hereinafter "Acquisition"); and

Whereas, Syntex with its principal office and place of business located at 3401 Hillview Avenue, Palo Alto, California 94304, manufacturers and markets through its indirect wholly-owned subsidiary, the Syva Company, among other things, drugs of abuse reagent products; and

Whereas, Hoffmann-La Roche Inc., an indirect wholly-owned subsidiary of Roche, with its principal office and place of business located at 340 Kingsland Street, Nutley, New Jersey 07110, through its subsidiary Roche Diagnostic Systems, Inc., manufacturers and markets, among other things, drugs of abuse reagent products; and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order ("Consent Order"), the Commission must place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of § 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the status quo ante of the Syva Business as defined in paragraph I. of the Consent Order during the period prior to the final acceptance of the Consent Order by the Commission (after the 60-day public comment period), divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of the Syva Business and the Commission's right to have the Syva Business continue as a viable competitor; and

Whereas, the purpose of the Hold Separate and the Consent Order is:

1. to preserve the Syva Business as a viable, independent business pending its divestiture as a viable and ongoing enterprise,

2. to remedy any anticompetitive effects of the Acquisition, and

3. to preserve the Syva Business as an ongoing and competitive entity engaged in the same business in which it is presently employed until divestiture is achieved; and

Whereas, Roche and Syntex's entering into this Hold Separate shall in no way be construed as an admission by Roche and Syntex that the Acquisition is illegal; and

Whereas, Roche and Syntex understand that no act or transaction contemplated by this Hold Separate shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Hold Separate.

Now, therefore, the parties agree, upon the understanding that the Commission has not yet determined whether the acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from Roche with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Hold Separate, the Agreement Containing Consent Order to which it is annexed and made a part thereof and the Order, once it becomes final, and in the event that the required divestiture is not accomplished, to appoint a trustee to seek divestiture of the Syva Business pursuant to the Consent Order, as follows:

1. Roche and Syntex agree to execute and be bound by the Consent Order.

2. Roche and Syntex agree that from the date this Hold Separate is accepted until the earliest of the time listed in subparagraphs 2.a.–2.b., they will comply with the provisions of Paragraph 3. of this Hold Separate:

a. three business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of § 2.34 of the Commission's rules;

b. the time that the divestiture obligations required by the Consent Order are completed.

3. To ensure the complete independence and viability of the Syva Business and to assure that no competitive information is exchanged between the Syva Business and Roche, Roche shall hold the Syva Business as it is presently constituted separate and apart on the following terms and conditions:

a. the Syva Business shall be held separate and apart and shall be operated independently of Syntex (meaning here and hereinafter, Syntex excluding the Syva Business and excluding all personnel connected with the Syva Business as of the date this Agreement was signed) and Roche (meaning here and hereinafter, Roche excluding Syntex and excluding all personnel connected with Syntex as of the date this Agreement was signed) except to the extent that Syntex or Roche must exercise direction and control over the Syva Business to assure compliance with this Agreement or the Consent Order.

b. Syntex personnel connected with Syva or providing support services to Syva as of the date of this Agreement was signed may continue, as employees of Syntex, to provide such services as they are currently providing to Syva. Such Syntex personnel must retain and maintain all material confidential information relating to the Syva Business on a confidential basis and, except as is permitted by this Hold Separate, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Roche business, including the drugs of abuse reagent products business, therapeutic drug monitoring business and the Roche clinical laboratories business.

c. Roche and Syntex shall elect a five-person board of directors for the Syva Company ("New Board"). The New Board shall consist of the Syva Company President and General Manager, Richard Bastiani, the Syva Company Senior Vice-President of Marketing and Sales, David Oxlade, and the Syva Company Vice-President of Finance, Wilbert Lee, as of the date of this Hold Separate (provided they agree, or comparable, knowledgeable persons among the managers of Syva Company independent of Roche); the Chief Financial Officer of Roche whose responsibilities with Roche do not involve direct management of Roche's drugs of abuse, therapeutic drug monitoring or clinical laboratories businesses, Henri B. Meier (provided he agrees, or a comparable, knowledgeable person among the financial managers of Roche); and the Chairman of Syntex, Paul Freiman (provided he agrees, or a comparable, knowledgeable person among the managers of Syntex). The Chairman of the New Board shall be Richard Bastiani (provided he agrees, or a comparable, knowledgeable person among the managers of Syva), who shall remain independent of Roche and competent to assure the continued viability and competitiveness of the Syva Company. Except for the Roche employee serving on the New Board, Roche shall not permit any director, officer, employee, or agent of Roche also to be a director, officer, employee of the Syva Company. Each New Board member shall enter into a confidentiality agreement agreeing to be bound by the terms and conditions set forth in Attachment A, appended to this Hold Separate.

d. Roche shall not exercise direction or control over, or influence directly or indirectly, the Syva Business, the New Board, or any of its operations or businesses; provided, however, that Roche may exercise only such direction and control over the Syva Business as is necessary to assure compliance with this Hold Separate, the order and with all applicable laws.

e. Roche and Syntex shall maintain the marketability, viability, and competitiveness of the Syva Business, and shall not cause or permit the destruction, removal, wasting, deterioration, or impairment of any assets or business they may have to divest except in the ordinary course of business and except for ordinary wear and tear, and they shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the marketability, viability or competitiveness of the Syva Business.

f. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating and consummating the Acquisition, defending investigations or litigation, obtaining legal advice, complying with this Hold Separate or the Consent Order or negotiating agreements to divest assets, Roche and Syntex shall not receive or have access to, or the use of, any material confidential information of the Syva Business or the activities of the New Board not in the public domain, nor shall the Syva Company, or the New Board, receive or have access to, or the use of, any material confidential information about the Roche drugs of abuse reagent business or the activities of Roche in managing the drugs of abuse reagent business not in the public domain. Roche and Syntex may receive on a regular basis from the Syva Company aggregate financial information necessary and essential to allow Roche and Syntex to file financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purpose set forth in this subparagraph. ("Material confidential information," as used herein, means competitively sensitive or proprietary information not independently known to Roche from sources other than the Syva Company or the New Board and includes but is not limited to customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

g. Except as is permitted by this Hold Separate, the director of the Syva Company appointed by Roche who is also a director, officer, agent, or employee of Roche ("Roche New Board member"), shall not receive any Syva Business material confidential information and shall not disclose any such information obtained through his or her involvement with the Syva Business to Roche or use it to obtain any advantage for Roche. The Roche New Board member shall participate in matters that come before the New Board only for the limited purposes of considering any capital investment of over $150,000, approving any proposed budget and operating plans, authorizing dividends and repayment of loans consistent with the provisions hereof, reviewing material transactions described in subparagraph 3.i, and carrying out Roche's responsibilities under the Hold Separate and the Order. Except as permitted by the Hold Separate, the Roche New Board member shall not participate in any matter, or attempt to influence the votes of other directors on the New Board with respect to matters that would involve a conflict of interest between Roche and the Syva Business. Meetings of the New Board during the term of the Hold Separate shall be audio recorded and the recording retained for two (2) years after the termination of the Hold Separate.

h. The Syva Company shall be staffed with sufficient employees to maintain the viability and competitiveness of the Syva Business, which employees shall be the Syva Company employees and may also be hired from sources other than the Syva Company. Each director, officer, and management employee of the Syva Company shall execute a confidentiality agreement prohibiting the disclosure of any Syva Business confidential information.

i. All material transactions, out of the ordinary course of business and not precluded by Paragraph 3 hereof, shall be subject to a majority vote of the New Board.

j. Roche shall not change the composition of the New Board unless the Chairman of the New Board consents. The Chairman of the New Board shall have the power to remove members of the New Board for cause and to require Roche to appoint replacement members to the New Board in the same manner as provided in Paragraph 3.c. of this Hold Separate. Roche shall not change the composition of the management of the Syva Company except that the New Board shall have the power to remove management employees for cause.

k. If the Chairman ceases to act or fails to act diligently, a substitute chairman shall be appointed in the same manner as provided in Paragraph 3.c.

l. Roche shall circulate to its management employees of Roche drugs of abuse, therapeutic drug monitoring and Roche clinical laboratories businesses and appropriately display a notice of this Hold Separate and Consent Order in the form attached hereto as Attachment A.

m. Roche and Syntex shall cause the Syva Business to continue to expend funds for the advertising and trade promotion of the Syva Business at levels not lower than those budgeted for 1994 and 1995, and shall increase such spending as deemed reasonably necessary by the New Board in light of competitive conditions. If necessary, Roche and Syntex shall provide the Syva Business with any funds to accomplish the foregoing. Syntex shall continue to provide to the Syva Business such support services as it provided prior to the Acquisition to the Syva Company.

n. All earnings and profits of the Syva Business shall be retained separately by the Syva Business. If necessary, Roche shall provide the Syva Business with sufficient working capital to operate at the rate of operation in effect during the twelve (12) months preceding the date of the Hold Separate.

o. The New Board shall serve at the cost and expense of Roche. Roche shall indemnify the New Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the New Board directors.

p. The New Board shall have access to and be informed about all companies who inquire about, seek or propose to buy the Syva Business.

q. The New Board shall report in writing to the Commission every thirty (30) days concerning the New Board's efforts to accomplish the purposes of this Hold Separate.

4. Should the Federal Trade Commission seek in any proceeding to compel Roche to divest itself of the Syva Business or any additional assets, as provided in the proposed order, or to seek any other equitable relief, Roche shall not raise any objection based on the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Roche shall also waive all rights to contest the validity of this Hold Separate.

5. For the purpose of determining or securing compliance with this Hold Separate, subject to any legally recognized privilege, and upon written request with reasonable notice to Roche made to its General Counsel, Roche and Syntex shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Roche or Syntex and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Roche or Syntex relating to compliance with this Hold Separate;

b. Upon five (5) days notice to Roche or Syntex, and without restraint or interference from it, to interview officers or employees of Roche or Syntex, who may have counsel present, regarding any such matters.

6. [Deleted].

7. This Hold Separate shall not be binding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

Roche Holding Ltd ("Roche") and Syntex Corporation ("Syntex") have entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission ("Commission") relating to the divestiture of the Syva Business. Until after the Commission's Order becomes final and the Syva Business is divested, the Syva Business must be managed and maintained as a separate, ongoing business, independent of all other Roche businesses and independent of the Roche drugs of abuse business. All competitive information relating to the Syva Business, including without limitation the drugs of abuse business, must be retained and maintained by the persons involved in the Syva Business on a confidential basis and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Roche business, including the drugs of abuse business, therapeutic drug monitoring business and the Roche Biomedical Laboratories business. Similarly, all such persons involve in the Roche therapeutic drug monitoring business, drugs of abuse business and the Roche Biomedical Laboratories shall be prohibited from providing, discussing, exchanging, circulating or otherwise furnishing competitive information about such business to or with any person whose employment involves the Syva Business.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Roche and Syntex to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted provisionally an agreement containing a proposed consent order from Roche Holding Ltd ("Roche"), under which Roche would be required to divest the assets relating to Syntex Corporation's drugs of abuse reagent business ("Syva Business").

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

In a proposed tender offer, Roche plans to acquire 100% of the voting securities of Syntex Corporation and merge Syntex into Roche.

The proposed complaint alleges that the proposed acquisition, if consummated, would constitute a

violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. section 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. section 45, in the market for drugs of abuse reagent products. The proposed Consent Order would remedy the alleged violation by replacing the lost competition that would result from the acquisition.

The proposed Consent Order provides that Roche shall divest the Syva Business within twelve (12) months from when the Order becomes final. If Roche is unable to divest the Syva Business during the allotted time period, then a trustee may be appointed to divest the Syva Business within a twelve (12) month period. If, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the time period for divestiture can be extended by the Commission, or, in the case of a court-appointed trustee, by the court. The Commission, however, may extend this period only two (2) times.

A Hold Separate Agreement signed by Roche provides that during any period in which Roche possesses an ownership interest in the Syva Business, these assets will be operated independently of Roche. Under the provisions of the Order, Roche is also required to provide to the Commission a report of compliance with the divestiture provisions of the Order within sixty (60) days following the date this Order becomes final, and every sixty (60) days thereafter until Roche has completely divested its interest in the Syva Business.

The Order also prohibits Roche from acquiring any interest in any other company that sells drugs of abuse reagent products without prior approval from the Commission for a ten-year period.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 94–22434 Filed 9–9–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 9123145]

RN Nutrition, et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the California marketers of the calcium supplement product, BoneRestore, to possess competent and reliable scientific evidence to substantiate the claims that any food, drug, or food or dietary supplement products will treat or cure any disease or condition; would prohibit the respondents from using the name BoneRestore in a misleading way; and would restrict the use of testimonial endorsements that do not represent typical results.

DATES: Comments must be received on or before November 14, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, Boston Regional Office, Federal Trade Commission, 101 Merrimac St., Suite 810, Boston, MA 02114–4719 (617) 424–5960.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition; Agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition, hereinafter sometimes referred to as proposed respondents, and it is now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between proposed respondents, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent RN Nutrition is a limited partnership organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office or place of business at 3402-M West MacArthur, Santa Ana, California 92704.

2. Proposed respondent George Page Rank is an individual who has been, and is now, a general partner of RN Nutrition. As such, he formulates, or participates in the formulation of, directs and controls the acts and practices of RN Nutrition. His business address is 3402-M West MacArthur, Santa Ana, California 92704.

3. Proposed respondent James W. Nugent is an individual who has been, and is now, a general partner of RN Nutrition. As such, he formulates, or participates in the formulation of, directs and controls the acts and practices of RN Nutrition. His business address is 3402-M West MacArthur, Santa Ana, California 92704.

4. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

5. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged

in the attached draft complaint, or that the facts alleged in the attached draft complaint, other than jurisdictional facts, are true.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

9. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition, or under any other name, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of BoneRestore or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product:

1. builds new bone, builds strong bones, increases bone and causes significant bone gain;
2. builds bone better than estrogen or other forms of calcium;
3. slows or stops bone loss;
4. helps persons who suffer from weak or weakening bones;
5. prevents and heals osteoporosis;
6. rebuilds bone and restores lost bone;
7. eliminates pain associated with bone ailments;
8. is absorbed by the body better than other forms of calcium;
9. prevents bone fractures;
10. straightens spinal curvatures; and
11. provides any benefit in the prevention, treatment, or cure of osteoporosis, arthritis, back pain, or any other bone ailment or condition;

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this Order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

II

It is further ordered that RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition, or under any other name, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of BoneRestore or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) of the product represents the typical or ordinary experience of members of the public who use the product, unless, at the time of making such representation, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

III

It is further ordered that RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition, or under any other name, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of BoneRestore or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the name "BoneRestore," or any other name, in a manner that represents, directly or by implication, that such product has the ability to restore, build, or increase bone unless, at the time of making the representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation that it restores, builds, or increases bone. This provision does not otherwise affect respondents' ability to use the trade name "BoneRestore," or any other brand name, to make a qualified representation that is substantiated by competent and reliable scientific evidence.

IV

It is further ordered that RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition, or under any other name, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of BoneRestore or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in section 15 of the Federal Trade Commission Act, in or affecting

commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

V

It is further ordered that RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition, or under any other name, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of BoneRestore or any food or dietary supplement, food, or drug, as "food" and "drug" are defined in section 15 of the Federal Trade Commission Act, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication, that any such product will treat, cure, alleviate the symptoms, prevent, or reduce the risk of developing any disease, disorder, or condition, unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

VI

Nothing in this Order shall prohibit respondents from making any representation that is specifically permitted in labeling for any such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

VII

Nothing in this Order shall prohibit respondents from making any representation for any drug that is permitted in labeling for any such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

VIII

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IX

It is further ordered that respondents shall forthwith distribute a copy of this Order to all principals and managers and to all personnel, agents, licensees and distributors, engaged in the preparation or placement of advertisements or promotional materials covered by this Order and shall obtain from each such employee, agent, licensee and distributor a signed statement acknowledging receipt of the Order.

X

It is further ordered that for a period of five (5) years from the date of entry of this Order, respondents George Page Rank and James W. Nugent shall provide written notice to the Federal Trade Commission within thirty (30) days of:

A. Any change in his business or employment that may affect compliance obligations arising out of this Order;

B. The discontinuance of his business or employment; and

C. His affiliation with any new business or employment; each such notice to include his business address and telephone number, home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

XI

It is further ordered that respondents shall, within sixty (60) days after service upon them of this Order, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents RN Nutrition, a limited partnership, and George Page Rank and James W. Nugent, individually and as co-partners, trading and doing business as RN Nutrition.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns claims made in respondents' direct mail and mail order catalog advertisements for their calcium supplement, "BoneRestore." The Commission's complaint alleges that respondents engaged in deceptive advertising by making unsubstantiated claims that BoneRestore prevents, treats, and cures bone disease, bone ailments and their related symptoms, and that the product is superior in this regard to other calcium supplements and/or estrogen. The complaint also alleges that respondents falsely claimed to have scientific substantiation for these claims. In addition, the complaint alleges that respondents made unsubstantiated claims that consumer testimonials appearing in their advertisements reflect the typical or ordinary experience of members of the public who have used BoneRestore.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the respondents from representing that BoneRestore, or any food or dietary supplement, food, or drug: builds and restores bone; stops bone loss; helps persons with weak bones; treats osteoporosis; relieves pain; is superior to calcium or estrogen; prevents fractures; straightens spinal curvatures; and that it provides any benefit in the prevention, treatment or cure of osteoporosis, arthritis, back pain, or other bone ailments, unless respondents possess competent and reliable scientific evidence that substantiates the representation.

Part II of the proposed order prohibits respondents from representing that any endorsement of BoneRestore represents the typical or ordinary experiences of members of the public who have used the product, unless respondents possess competent and reliable scientific evidence that substantiates the representation.

Part III of the proposed order requires respondents to cease using the name "BoneRestore" or any other brand name that represents that such product has the ability to restore, build, or increase

bone, unless respondents possess competent and reliable scientific evidence that substantiates the representation.

Part IV of the proposed order prohibits respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study.

Part V of the proposed order prohibits respondents from representing that BoneRestore or any food or dietary supplement, food, or drug, will treat, cure, prevent, or reduce the risk of developing any disease, disorder, or condition, unless respondents possess competent and reliable scientific evidence that substantiate the representation.

Parts VI and VII of the proposed order include safe harbor provisions allowing respondents to make any representation permitted in labeling by the Food and Drug Administration for food under the Nutrition Labeling and Education Act of 1990, and for drugs under any tentative final or final standard promulgated by the Food and Drug Administration.

The remaining portions of the proposed order require respondents to maintain materials relied upon in disseminating any representation covered by this order, to distribute copies of the order to certain officials and employees, to notify the Commission of changes in the business and employment of the individual respondents, and to file reports detailing respondents' compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Deborah K. Owen in the Matter of RN Nutrition (File No. 912-3145)

The reasons for my dissenting vote in this matter are identical to those expressed in my separate statement in the companion case, Metagenics, Inc. (File No. 912-3347), which is attached.

Dissenting Statement of Commissioner Deborah K. Owen in the Matter of Metagenics, Inc. (File No. 912-3347)

Although I believe that certain of Metagenics' claims were unsubstantiated and, therefore, I would have been inclined to support a more narrow complaint, I must dissent from today's Commission action because I believe that, on balance, it runs contrary to the public interest. I fear that the breadth of the allegations in the administrative complaint may convey the wrong message to the public and thereby discourage not only truthful and nondeceptive claims about calcium supplements but, ultimately, their use.

The Commission has taken great pains in recent years to articulate and justify its standards for advertising interpretation and substantiation. In taking this action today, I believe that the Commission has essentially ceded its authority to the FDA on both counts. In short, I find today's Commission action overly restrictive and inconsistent with the previously announced policies of the Commission. Accordingly, I respectfully dissent.

[FR Doc. 94-22432 Filed 9-9-94; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee and Subcommittee on Proficiency Testing, Quality Assurance, and Quality Control: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates: 8:30 a.m.-12 noon, September 27, 1994; 8:30 a.m.-5 p.m., September 28, 1994.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services and the Assistant Secretary for Health regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters to be Discussed: The agenda will include an orientation for all members regarding the roles and responsibilities of an advisory committee member, a summary of the March meeting, an update on the Clinical Laboratory Improvement Amendments Regulations, a Health Care Financing Administration (HCFA) update on laboratory inspections, proficiency testing implementation by HCFA, and an information update and report from the Subcommittee on Proficiency Testing, Quality Assurance, and Quality Control. Agenda items are subject to change as priorities dictate.

Name: Subcommittee on Proficiency Testing, Quality Assurance, and Quality Control.

Time and Date: 1 p.m.-4:30 p.m., September 27, 1994.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee advises CLIAC on issues related to proficiency testing, quality assurance, and quality control.

Matters to be Discussed: The subcommittee will be given an informational update on proficiency testing requirements and will discuss the 80 percent versus 90 percent consensus to determine gradability of proficiency testing samples. Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: John C. Ridderhof, Dr.P.H, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop G-25, Atlanta, Georgia 30341-3724, telephone 404/488-7660.

Dated: September 6, 1994.

Jack Jackson,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94-22413 Filed 9-9-94; 8:45 am]

BILLING CODE 4163-18-M

National Institutes of Health

National Institute of Dental Research; Closed Meeting of the National Institute of Dental Research Special Grants Review Committee

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 of Dental Research Special Grants Review Committee.

Date: October 19-20, 1994.

Time: 8:30 a.m. to Adjournment.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, Westwood Building, Room 519, Bethesda, MD 20892 (301) 594-7632.

Purpose/Agenda: To review and evaluate grant applications and/or contract proposals.

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 Program No. 93.121, Dental Research Institute; National Institutes of Health, HHS)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22459 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council and its Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Advisory Dental Research Council and its subcommittee, National Institute of Dental Research, on September 26–27, 1994. The Subcommittee on Minority Activities meeting will be open to the public on September 26 from 9:00 a.m. to approximately 11:30 a.m., Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland. The meeting of the full Council will be open to the public on September 27 from 8:30 a.m. to recess, Conference Room 6, Building 31C, for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on September 26, 1:00 p.m. to recess, for the review, discussion and evaluation of individual grant applications and on September 27, approximately 4:15 p.m. to adjournment, for the discussion, review and evaluation of the Board of Scientific Counselors' reports. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and reports, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Lois K. Cohen, Executive Secretary, National Advisory Dental Research Council, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland 20892 (telephone (301) 496–9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22458 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting: Microbiology and Infectious Diseases Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on October 13, 1994, at the Bethesda Ramada, Room 229, 8400 Wisconsin Avenue, Chevy Chase, Maryland.

The meeting will be open to the public from 8 a.m. to 9 a.m. on October 13, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until adjournment. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Gary Madonna, Scientific Review Administrator, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Solar Building, Room 4C12, Rockville, Maryland 20892, telephone 301–496–8424, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: September 6, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–22457 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on October 27–28, 1994. The meeting will be held in Building 31, C Wing, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 1 p.m. to recess on October 27 and from 9 a.m. to adjournment on October 28 for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9 a.m. to approximately noon on October 27, 1994 for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole A. Frank, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630M, MSC 7405, National Institutes of Health, Bethesda, Maryland 20892–7405 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/

496–6927) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other special accommodations, should contact Dr. David McB. Howell (301) 496–6927, in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 6, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–22449 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meetings of the National Cancer Advisory Board and Its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, and its Subcommittees on October 3 and 4, 1994 at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications and discussion of extramural/intramural programmatic and personnel policies. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning the individuals associated with the applications or programs, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, National Institutes of Health, Executive Plaza North, Room 630, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496–5708), will provide a summary of the meeting and roster of the Board members, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Carole Frank, Committee Management Specialist, at 301/496–5708 in advance of the meeting.

Name of Committee: National Cancer Advisory Board.

Contact Person: Dr. Marvin R. Kalt, Executive Plaza North, Room 600A, Bethesda, MD 20892; (301) 496–5147.

Dates of Meeting: October 3–4, 1994.

Place of Meeting: Building 31C, Conference Room 10.

Open: October 3—8 a.m. to approximately 12 noon.

Agenda: Report on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; and Scientific Presentations.

Closed: October 3—3 p.m. to recess.

Agenda: For review and discussion of individual grant applications and extramural/intramural programmatic and personnel policies.

Open: October 4—8 a.m. to adjournment.

Agenda: Policy and Scientific Presentations, Subcommittee Reports; and New Business.

Name of Committee: Subcommittee on Planning and Budget.

Contact Person: Ms. Cherie Nichols, Building 31, Room 11A19, Bethesda, MD 20892; (301) 496–5515.

Date of Meeting: October 3, 1994.

Place of Meeting: Building 31C, Conference Room 8.

Open: 2 p.m. to 3 p.m.

Agenda: To discuss the NCI budget and various planning issues.

Name of Committee: Clinical Investigations Task Force.

Contact Person: Dr. Bruce Chabner, Building 31, Room 3A52, Bethesda, MD 20892; (301) 496–4291.

Date of Meeting: October 3, 1994.

Place of Meeting: Building 31C, Conference Room 8.

Open: Immediately following the recess of the NCAB's closed session.

Agenda: To discuss clinical investigational issues.

Name of Committee: Subcommittee for Special Priorities.

Contact Person: Ms. Iris Schneider, Building 31, Room 11A48, Bethesda, MD 20892; (301) 496–5534.

Date of Meeting: October 3, 1994.

Place of Meeting: Building 31C, Conference Room 9.

Open: 2 p.m. to 3 p.m.

Agenda: To discuss issues related to special priorities.

Name of Committee: Subcommittee on Information and Cancer Control.

Contact Person: Mr. Paul Van Nevel, Building 31, Room 10A31, Bethesda, MD 20892; (301) 496–6631.

Date of Meeting: October 3, 1994.

Place of Meeting: Building 31C, Conference Room 9.

Open: 1 p.m. to 2 p.m.

Agenda: To discuss cancer control issues.

Name of Committee: Subcommittee on Cancer Centers.

Contact Person: Dr. Brian Kimes, Executive Plaza North, Room 300, Bethesda, MD 20892; (301) 496–8537.

Date of Meeting: October 3, 1994.

Place of Meeting: Building 31C, Conference 8.

Open: 1 p.m. to 2 p.m.

Agenda: To discuss the cancer centers.

Name of Committee: Subcommittee on Environmental Carcinogenesis.

Contact Person: Dr. Richard Adamson, Building 31, Room 11A03, Bethesda, MD 20892; (301) 496–6618.

Date of Meeting: October 3, 1994.

Place of Meeting: Building 31C, Conference 9.

Open: Immediately following the recess of the NCAB's closed session.

Agenda: To discuss environmental carcinogenesis.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support, 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 6, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–22450 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Biometry and Epidemiology Contract Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, October 17–18, 1994, at the Executive Plaza North Building, Conference Room G, 6130 Executive Boulevard, Rockville, Maryland 20892–7405.

This meeting will be open to the public from 9 a.m. to 10 a.m. on October 17 to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 17 from 10 a.m. to recess and on October 18 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Institutes of Health, National Cancer Institute, Executive Plaza North Room 630E, 6130 Executive Blvd MSC 7405, Bethesda, Maryland 20892–7405, Tel. (301) 496–5708, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Harvey P. Stein, Scientific Review Administrator, Contracts Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Executive Plaza North Room 601C, 6130 Executive Blvd MSC 7405, Bethesda, Maryland 20892–7405, Tel. (301) 496–7030, will furnish substantive program information.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Alma O. Carter on (301) 496–7523 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 6, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–22451 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Institute for September and October 1994.

These meetings will be open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and extramural and intramural programs and projects including consideration of personnel qualifications and performance. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, proposals, and programs, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, the Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630E, 6130 Executive Blvd MSC 7405, Bethesda, Maryland 20892–7405 (301–496–5708) will provide summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meetings may be obtained from the contact person indicated below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodation, should contact the Executive Secretary/Scientific Review Administrator listed for that particular meeting.

Committee Name: Subcommittee A of the Cancer Biology-Immunology Contracts Review Committee.

Contact Person: Dr. Lalita D. Palekar, Room 601D, Executive Plaza North, Telephone: (301) 496–7575.

Date of Meeting: September 22–23, 1994.

Place of Meeting: Chevy Chase Holiday Inn, Palladian West Conference Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Open: September 22, 1994—8:30 a.m. to 9:30 a.m.

Agenda: Discussion of administrative details.

Closed: September 22, 1994—9:30 a.m. to recess, September 23, 1994—8:30 a.m. to adjournment.

Agenda: Review, discussion and evaluation of individual contract proposals.

Committee Name: President's Cancer Panel.

Contact Person: Dr. Maureen Wilson, Building 31, Room 4B43, 9000 Rockville Pike, Telephone: (301) 496–1148.

Date of Meeting: October 5, 1994.

Place of Meeting: Holiday Inn Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Open: October 5, 1994—8 a.m. to adjournment.

Agenda: Lung Cancer: Clinical, Societal and Governmental Challenges.

Committee Name: Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Plaza North, Telephone: (301) 496–8526.

Date of Meeting: October 13–14, 1994.

Place of Meeting: Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Open: October 13, 1994—10:45 a.m. to 3:30 p.m. October 14, 1994—8:30 a.m. to 3:30 p.m.

Agenda: Review progress of programs within the Division and review of concepts being considered for funding.

Closed: October 14, 1994—3:30 p.m. to 5 p.m.

Agenda: Extramural/Intramural programmatic and personnel policies of a sensitive nature.

Committee Name: Surveillance Subcommittee, Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Plaza North, Telephone: (301) 496–8526.

Date of Meeting: October 13, 1994.

Place of Meeting: Building 31, Conference Room 8, 9000 Rockville Pike, Bethesda, MD 20892.

Open: October 13, 1994—8:30 a.m. to 10:30 a.m.

Agenda: Discuss current and future programs of the subcommittee and review of concepts being considered for funding.

Committee Name: Early Detection and Community Oncology Subcommittee, Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Plaza North, Telephone: (301) 496–8526.

Date of Meeting: October 13, 1994.

Place of Meeting: Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Open: October 13, 1994—8:30 a.m. to 10:30 a.m.

Agenda: Discuss current and future programs of the subcommittee and review of concepts being considered for funding.

Committee Name: Cancer Control Science Subcommittee, Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Plaza North, Telephone: (301) 496–8526.

Date of Meeting: October 13, 1994.

Place of Meeting: Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20892.

Open: October 13, 1994—8:30 a.m. to 10:30 a.m.

Agenda: Discuss current and future programs of the subcommittee and review of concepts being considered for funding.

Committee Name: Cancer Prevention Research Subcommittee, Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Plaza North, Telephone: (301) 496–8526.

Date of Meeting: October 13, 1994.

Place of Meeting: Building 31, Conference Room 9, 9000 Rockville Pike, Bethesda, MD 20892.

Open: October 13, 1994—8:30 a.m. to 10:30 a.m.

Agenda: Discuss current and future programs of the subcommittee and review of concepts being considered for funding.

Committee Name: Subcommittee A of the Cancer Research Manpower and Education Review Committee.

Contact Person: Dr. Mary Bell, Room 611A, Executive Plaza North, Telephone: (301) 496–7978.

Date of Meeting: October 16–18, 1994.

Place of Meeting: The Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007

Open: October 16, 1994—7:30 p.m. to 8:30 p.m.

Agenda: Discussion of administrative details and other cancer research manpower review issues.

Closed: October 16, 1994—8:30 p.m. to recess. October 17, 1994—8 a.m. to recess. October 18, 1994—8 a.m. to adjournment.

Agenda: Review, discussion and evaluation of individual grant applications.

This notice is being published less than 15 days prior to the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 6, 1994.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 94–22452 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the National Heart, Lung, and Blood Advisory Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, October 20–21, 1994, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892.

The Council meeting will be open to the public on October 20 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., sec. 10(d) of Public Law 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. to recess on October 20 and from 8:30 a.m. to adjournment on October 21 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892 (301) 496–4236, will provide a summary of the meetings and a roster of the Council members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. Ronald G. Geller, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, Room 7A–17, National Institutes of Health, Bethesda, Maryland 20892 (301) 594–7454, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program 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: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22454 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Closed Meetings

Purusant 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 Initial Review Group (IRG) meetings:

Name of IRG: Research Training Review Committee.

Date: October 2–4, 1994.

Time: 7:30 p.m.

Place: Bethesda Holiday Inn, Bethesda, Maryland.

Contact Person: Dr. Kathryn Ballard, 5333 Westbard Avenue, Room 550, Bethesda, Maryland 20892, (301) 594–7450.

Purpose/Agenda: To review and evaluate grant applications.

Name of IRG: Clinical Trials Review Committee.

Date: October 23–24, 1994.

Time: 7:00 p.m.

Place: Hyatt Regency, Bethesda, Maryland.

Contact Person: Dr. David Monsees, Jr., 5333 Westbard Avenue, Room 550, Bethesda, Maryland 20892, (301) 594–7450.

Purpose/Agenda: To review and evaluate grant applications.

These meetings 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 the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(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: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22455 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Closed Meetings

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) meetings:

Name of SEP: Clinical Units for Angiographic Trial in Women.

Date: September 26–27, 1994.

Time: 7:00 p.m.

Place: Chevy Chase Holiday Inn, Chevy Chase, Maryland.

Contact Person: David M. Monsees, Jr., Ph. D., 5333 Westbard Avenue, Room 550, Bethesda, Maryland 20892, (301) 594–7450.

Purpose/Agenda: To review and evaluate contract proposal(s).

Name of SEP: Clinical Coordinating Center for Angiographic Trial in Women.

Date: September 27, 1994.

Time: 12:00 p.m.

Place: Chevy Chase Holiday Inn, Chevy Chase, Maryland.

Contact Person: David M. Monsees, Jr., Ph.D., 5333 Westbard Avenue, Room 550, Bethesda, Maryland 20892, (301) 594–7450.

Purpose/Agenda: To review and evaluate contract proposal(s).

Name of SEP: Program Project Grant(s) (P01).

Date: September 26–28, 1994.

Time: 7:30 p.m.

Place: Bethesda Holiday Inn, Bethesda, Maryland.

Contact Person: Deborah P. Beebe, Ph.D., 5333 Westbard Avenue, Room 555, Bethesda, Maryland 20892, (301) 594–7418.

Purpose/Agenda: To review and evaluate grant application(s).

Name of SEP: Mode Selection Trial in Sinus Node Dysfunction (MOST).

Date: October 24, 1994.

Time: 2:00 p.m.

Place: Hyatt Regency, Bethesda, Maryland.

Contact Person: C. James Scheirer, Ph.D., 5333 Westbard Avenue, Room 557, Bethesda, Maryland 20892, (301) 594–7478.

Purpose/Agenda: To review and evaluate grant application(s).

These meetings 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. 98.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH

[FR Doc. 94–22453 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Board of Scientific Counselors, NIDCD

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIDCD, October 20, 1994. The meeting will be conducted as a telephone conference call originating from Building 31C, Room 3C05, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 2 p.m. to 3 p.m. to present reports and discuss issues related to the business of the Board. Attendance by the public will be limited to space available.

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 3 p.m. until adjournment at approximately 3:30 p.m. The closed portion of the meeting will be for the review, discussion, and evaluation of the programs of the Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from Jay Moskowitz, Ph.D., Executive Secretary of the Board of Scientific Counselors, NIDCD, Building 31, Room 3C02, Bethesda, Maryland 20892.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Moskowitz at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders.)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22460 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting: Allergy, Immunology, and Transplantation Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee on October 4, 1994, at the Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on October 4, for opening remarks by the Scientific Review Administrator to discuss administrative details relating to committee business and program review, and a report from the Director, Division of Extramural Activities which will include a discussion of budgetary matters. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:30 a.m. until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Mark L. Rohrbaugh, Scientific Review Administrator, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Solar Building, Room 4C22, Bethesda, Maryland 20892, telephone 301–496–8424, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research, National Institutes of Health.)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22456 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine, on October 10–11, 1994.

The meeting on October 11 will be open to the public from 9 a.m. to 3 p.m. in the Board Room of the Library, 8600 Rockville Pike, Bethesda, Maryland, for the review of research and development programs and preparation of reports of the National Center for Biotechnology Information. 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 Dr. David Lipman at 301–496–2475.

In accordance with 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 on October 10 from 7 p.m. to approximately 10 p.m., at the Bethesda Hyatt, Bethesda, Maryland, and on October 11, from 3 p.m. to approximately 5 p.m., in the Board Room of the National Library of Medicine, for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. David J. Lipman, Director, National Center for Biotechnology Information, National Library of Medicine, 8600 Rockville

Pike, Bethesda, Maryland 20894, telephone (301) 496–2475, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22462 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Literature Selection Technical Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on October 13–14, 1994, convening at 9 a.m. on October 13 and at 8:30 a.m. on October 14 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on October 13 will be open to the public from 9 a.m. to approximately 10:30 a.m. for the discussion of administrative reports and program 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 Ms. Karen Griffin at 301–496–6921 two weeks before the meeting.

In accordance with provisions set forth in section 552b(c)(9)(B), Title 5, U.S.C., Public Law 92–463, the meeting will be closed on October 13 from 10:30 a.m. to approximately 5 p.m. and on October 14 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Scientific Review Administrator of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22461 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

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 Division of Research Grants Special Emphasis Panels (SEPs) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.
Date: September 26, 1994.
Time: 9:00 a.m.
Place: ANA Hotel, Washington, D.C.
Contact Person: Dr. Mushtaq Khan, Scientific Review Administrator, 5333 Westbard Ave., Room 354B, Bethesda, MD 20892, (301) 594–7168.

Name of SEP: Multidisciplinary Sciences.
Date: October 2–4, 1994.
Time: 7:30 p.m.
Place: Crown Plaza, Rockville, MD.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 5333 Westbard Ave., Room 2A11, Bethesda, MD 20892, (301) 594–7276.

Name of SEP: Behavioral and Neurosciences.
Date: November 7, 1994.
Time: 8:00 a.m.
Place: Sheraton City Hotel, DC.
Contact Person: Dr. Bob Weller, Scientific Review Administrator 5333 Westbard Ave., Room 307 Bethesda, MD 20892, (301) 594–7340.

Name of SEP: Biological and Physiological Sciences.
Date: November 16, 1994.
Time: 9:00 a.m.
Place: American Inn of Bethesda, Bethesda, MD.
Contact Person: Dr. David Remondini, Scientific Review Admin., 5333 5333 Westbard Ave., Room 225B, Bethesda, MD 20892, (301) 594–7202.

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.

Name of SEP: Multidisciplinary Sciences.
Date: November 7–9, 1994.
Time: 7:00 a.m.
Place: Bethesda Marriott Hotel, Bethesda, MD.
Contact Person: Dr. Naheeb Mourad, Scientific Review Administrator, 5333 Westbard Ave., Room 2A04, Bethesda, MD 20892, (301) 594–7213.

The meetings will be closed in accordance with the provisions set forth in section 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 Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS.)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22463 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Announcement of Intent To Conduct Toxicological Studies of 22 Chemicals

Request for Comments: As part of an effort to inform the public, the National Toxicology Program (NTP) routinely announces in the **Federal Register** the lists of chemicals for which it intends to conduct toxicological studies. This announcement will allow interested parties to comment and provide information on chemicals under consideration for short- and long-term toxicology and carcinogenesis studies.

Chemical 1. Riddelliine (CAS No. 23246–96–0)—2-year studies via oral gavage in B6C3F1 mice and F344 rats. Riddelliine is a pyrrolizidine alkaloid found in plants of the genus Senecio in the Western United States. Riddelliine and other alkaloids in these plants if ingested in high quantities can cause the death of livestock, or may contaminate meat as a residue. Riddelliine may also contaminate commercial grains, milk and honey, and is found in some herbal teas. In NTP 90-day studies Riddelliine was found to cause hepatic toxicity in mice and rats and hepatic neoplasia in rats. Two-year carcinogenicity studies of standard design are proposed to determine the shape of the dose response curve for carcinogenicity in rats, and further evaluate the toxic and carcinogenic potential in mice.

Chemical 2. Urethane/Ethanol mixture (CAS No. 51–79–6/64–17–5)—2-year studies via dosed-water in B6C3F1 mice and F344 rats. Urethane and ethanol are byproducts of fermentation and are commonly found in alcoholic beverages and in many foods. Urethane has been recognized as a rodent and Non-human primate carcinogen, while the International Agency for Research on Cancer has determined that alcoholic beverages are human carcinogens. Risk assessment efforts for urethane are complicated by information in the literature suggesting that the metabolism and perhaps the tumorigenicity of urethane might be inhibited by the co-presence of ethanol. NTP 13-week studies were inconclusive in demonstrating an effect of ethanol on urethane carcinogenesis. Two-year

studies are planned to examine this issue further. The studies will include separate groups of male and female mice exposed to urethane, ethanol, or to several levels of urethane and ethanol in the drinking water. The studies will include an assessment of the toxicokinetics of urethane, with and without ethanol, following repeated dosing. Studies of urethane DNA adducts are planned to address the issue of the dosimetry of DNA alterations.

Chemical 3. Urethane (CAS No. 51–79–6)—2 year studies via dosed-water in B6C3F1 mice and F344 rats.

The studies planned for urethane are outlined in the plans for urethane/ethanol mixture studies described above.

Chemical 4. Ethanol (CAS No. 64–17–5)—2-year studies via dosed-water in B6C3F1 mice and F344 rats.

The studies planned for ethanol are outlined in the plans for urethane/ethanol mixture studies described above.

Chemical 5. Dichlorodiphenyl sulfone (CAS No. 80–07–9)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

Dichlorodiphenyl sulfone is a component of high temperature plastics. Specific production figures are unknown, but the production of plastics made from dichlorodiphenyl sulfone and related monomers was over 1.5 billion pounds in 1988. Very little toxicology information is available on this chemical. One study reported liver and cardiac lesions in animals exposed to dichlorodiphenyl sulfone. A known inducer of cytochrome P450s, dichlorodiphenyl sulfone was shown to cause marked hepatomegaly in NTP prechronic studies. Other studies have shown facile oral absorption and a relatively simple metabolite pattern, as well as self induction of metabolism with repeated administration.

Carcinogenicity studies with dichlorodiphenyl sulfone are planned with both sexes of rats and mice using the dosed feed route of administration.

Chemical 6. Elmiron (CAS No. 37319–17–8)—14-day studies via oral gavage in B6C3F1 mice and F344 rats.

Elmiron is a pentosan polysulfate used as an experimental drug in the United States for the compassionate treatment of interstitial cystitis, and used in Europe to prevent thrombosis and hyperlipidemia. The United States Food and Drug Administration Nominated elmiron to the NTP as an "orphan" drug in need of chronic toxicity and carcinogenicity evaluation. Currently, 14-day studies are being undertaken with oral administration of the drug to rats and mice, to determine if expected effects on the clotting system will be the basis on which to select doses for further evaluations. Chronic toxicity and carcinogenicity evaluations by standard designs are under consideration.

Chemical 7. Benzophenone (CAS No. 119–61–9)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

Benzophenone is found in many consumer products, e.g., as a fragrance and flavor enhancer, photoinitiator, ultraviolet curing agent, a polymerization inhibitor, and in the manufacture of pesticides and various pharmaceuticals. Benzophenone and the structurally related compound 2-hydroxy-4-methoxy benzophenone were nominated for study from a class of ether compounds having widespread potential for human exposure. The carcinogenic potential of benzophenone has only been evaluated by topical administration to female Swiss mice. No indication of carcinogenicity was reported. In NTP 13-week studies, the oral administration of benzophenone was found to cause hepatocellular hypertrophy in rats and mice, and evidence of cholestatic liver injury and renal damage in rats. Marked induction of hepatic CYP 450 IIB was observed in rats and mice. Chronic toxicity and carcinogenicity studies proposed for this chemical are of the standard design, but with a stop exposure group using a dose which produced marked liver and kidney lesions in prechronic studies. Toxicokinetic studies are also planned.

Chemical 8. 2-Hydroxy-4-methoxybenzophenone (CAS No. 131–57–7)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats. 2-Hydroxy-4-methoxybenzophenone is a UV stabilizer used in cosmetic, pharmaceutical and plastic products. Consumer exposure is likely greatest through its use in skin moisturizers and sunscreens where products containing up to 6% 2-hydroxy-4-methoxybenzophenone are permitted. In NTP 13-week studies by the oral and topical routes, similar sites of toxicity were seen, primarily the liver and kidney, and effects on sperm density and the length of the estrous cycle were noted. Other NTP studies indicated that absorption was good after both oral and topical administrations, and major metabolites after intravenous administration were identified. Two-year studies of standard design are planned for this chemical by the oral route of administration rather than a topical one to provide information more comparable to that obtained with Benzophenone. In addition, the severity of the lesions in the topical prechronic studies was limited, indicating that a rigorous evaluation of the carcinogenicity of the chemical would be better achieved using oral administration.

Chemical 9. Methacrylonitrile (CAS No. 126–98–7)—2-year studies via oral gavage in B6C3F1 mice and F344 rats. Methacrylonitrile is an industrial chemical widely used in a variety of organic processes related to the manufacture of polymers. It is a highly reactive unsaturated aliphatic nitrile found in cigarette smoke, and is known to liberate cyanide *in vivo*. Methacrylonitrile has been studied extensively by the NTP including studies of 14-day and 90-day durations in rats and mice by gavage. In addition, absorption, disposition, toxicokinetics, cell proliferation and developmental toxicity studies have been performed. This chemical will be the subject of modeling efforts with physiologically-based-pharmacokinetic modeling techniques, and is also recommended for 2-year chronic toxicity and carcinogenicity studies of a standard design.

Chemical 10. Acrylonitrile (CAS No. 107–13–1)—2-year studies via oral gavage in B6C3F1 mice and F344 rats. Acrylonitrile is extensively used for the manufacture of synthetic fibers, resins, elastomers, rubber and plastics. Estimated production is in the range of 30 million to 1.5 billion pounds per year. There is limited evidence for the carcinogenicity of acrylonitrile in workers and Zt has been shown to produce chromosome damage in the blood cells of exposed workers. Acrylonitrile has produced brain, stomach and zymbal gland tumors in 2 year studies in rats, but has not been studied in mice. Brain tumors are rare chemically induced lesions in rodents. There is little chance that the outcome of a mouse cancer study would change the classification of acrylonitrile as a rodent carcinogen, but given the quantitiative differences in acrylonitrile metabolism in rats and mice, it is possible that clues to possible critical metabolities will be gained from comparative studies in mice. Therefore, as part of the nitrile class study, acrylonitrile will be studied in mice by the standard NTP protocol. Toxicokinetic estimates will be derived by analysis of an acrylonitrile-glutathione conjugation product in the urine.

Chemical 11. m-Nitrotoluene (CAS No. 99–08–1)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

The nitrotoluenes are high production volume chemicals used in the synthesis of agricultural and rubber chemicals and in various dyes. There are known

differences in the patterns of metabolism of the chemicals with the ortho-isomer undergoing a unique series of host and gut microflora-mediated reactions leading to an intermediate with high capacity to bind to hepatic DNA and induce unscheduled DNA synthesis. In extensive NTP prechronic studies, the comparative toxicity of the nitrotoluene isomers was determined. An unexpected finding was the presence of chemically induced mesothelioma in male rats receiving o-nitrotoluene. Studies to elucidate the possible role of gut microflora in the mesothelioma response demonstrated that microflora metabolism was not necessary for the mesothelioma response. To further understand the carcinogenic potential of these chemicals and to relate this information to the extensive existing knowledge of their metabolism, chronic toxicity and carcinogenicity studies are planned with all three isomers.

Chemical 12. o-Nitrotoluene (CAS No. 88–72–2)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

The studies planned for o-nitrotoluene are outlined in the plans for m-nitrotoluene described above.

Chemical 13. p-Nitrotoluene (CAS No. 99–99–0)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

The studies planned for p-nitrotoluene are outlined in the plans for m-nitrotoluene described above.

Chemical 14. m-Cresol (CAS No. 108–39–4)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

The cresols are monomethyl derivatives of phenol, and are found as constituents of coal tar, in various industrial solvents and resins, and in some essential oils. Cresols are on the list of Hazardous Air Pollutants in the Clean Air Act Amendments of 1990 and on the Superfund Priority List of Hazardous Substances. There are no adequate published chronic toxicity and carcinogenicity studies of the cresols and this was identified as a research need by an International Programme for Chemical Safety working group in mid-1994. The NTP has performed comparative 13-week toxicity studies in rats and mice by the dosed feed route. The isomers were found to exhibit generally similar patterns of toxicities, with the o-isomer being somewhat less toxic than m- or p-cresol. Comparative chronic toxicity and carcinogenicity studies in rats and mice are planned for the cresols. The studies will follow standard designs.

Chemical 15. o-Cresol (CAS No. 95–48–7)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

The studies planned for o-cresol are outlined in the plans for m-cresol described above.

Chemical 16. p-Cresol (CAS No. 106–44–5)—2-year studies via dosed-feed in B6C3F1 mice and F344 rats.

The studies planned for p-cresol are outlined in the plans for m-cresol described above.

Chemical 17. 2,4-Decadienal (CAS No. 25152–84–5)—13-week and 2-year studies via oral gavage in B6C3F1 mice and F344 rats.

2,4-Decadienal is one of the class of dienaldehydes that occur naturally in a variety of foods. They occur as byproducts of the peroxidation of polyunsaturated lipids. Ingested lipid oxidation products and oxidized fats have been reported to cause damage to the liver and kidneys, increased cellular proliferation in the gastrointestinal tract, and other non-specific tissue injury. Certain alpha, beta unsaturated lipids, including 2,4-decadienal and 2,4-hexadienal are known to react with DNA, and several researchers have suggested a possible link between lipid peroxidation products in the diet and human cancer. 2,4-Decadienal will be studied in prechronic and chronic toxicity and carcinogenicity studies in rats and mice.

Chemical 18. 2,4-Hexadienal (CAS No. 142–83–6) 13-week and 2-year studies via oral gavage in B6C3F1 mice and F344 rats.

The studies planned for 2,4-hexadienal are similar to those outlined above for 2,4-Decadienal.

Chemical 19. Dipropylene glycol (CAS No. 25265–71–8) 2-year studies via dosed-water in B6C3F1 mice and F344 rats.

Dipropylene glycol is a component of antifreeze, air fresheners/sanitizers and is used as a stabilizer in cosmetics, as a component in polyester, alkyd resins, plastics, as a plasticizer and as a solvent. It is a relatively high production volume chemical with nearly 100 million pounds used in the United States annually. It was found to be of low to moderate toxicity in NTP 13-week studies. Mortality, hepatocellular lesions including atypical foci and an adenoma were seen in rats at the top dose. Findings in mice were limited to increased liver weights. Carcinogenicity studies of a standard design are proposed for dipropylene glycol.

Chemical 20. Arsenic trioxide (CAS No. 1327–53–3) study plans are being formulated.

Arsenic trioxide is a byproduct of copper or lead smelting operations and is used in pesticides, in the manufacture of glass, pharmaceuticals and other industrial chemicals. Arsenic and arsenic compounds have been classified as human carcinogens by the International Agency for Research on Cancer, but the demonstration of the carcinogenicity of arsenic trioxide and other arsenical compounds in rodents has been difficult. Arsenic is a common water contaminant and there is need for information on biomarkers of exposure for low dose risk estimations. For these reasons the program has selected arsenic trioxide for study as part of an initiative to examine human carcinogens which have not adequately been evaluated in rodent studies. Specific study designs are under development.

Chemical 21. Tamoxifen (CAS No. 10540–29–1)/conjugated estrogens study plans are being formulated.

Studies on tamoxifen and conjugated estrogens will be designed to address several issues. Conjugated estrogens are listed by the International Agency for Research on Cancer as human carcinogens causing endometrial cancer, however these chemicals have never been adequately studied in animals. These chemicals find wide use in human medicine and in skin care preparations. Estrogens are prescribed for prevention of osteoporosis in post-menopausal women and are used as oral contraceptives. Tamoxifen is a mixed estrogen agonist/antagonist known to be effective in the treatment and prevention of estrogen sensitive breast cancer. Tamoxifen also causes endometrial cancer in humans. Studies are being designed to help characterize dose-response relationships and cancer risks for estrogen agonist and antagonists.

Chemical 22. MX [3-Chloro-4-(dichloromethyl)-5-hydroxy-2-furanone] (CAS No. 77439–76–0) study plans are being formulated.

MX is a mutagenic byproduct of water and wood pulp chlorination and has been determined to account for about half of the mutagenic potency of finished drinking water. The EPA has Nominated MX for carcinogenicity studies with the expectation that the outcome could influence United States drinking water contaminant standards. Study designs are incomplete.

Anyone have relevant information (including ongoing toxicological studies, current or future trends in production and import, use pattern, human exposure levels, environmental occurrence and toxicological data) to share with the NTP on any of these chemicals, should contact Dr. William Eastin within 60 days of the appearance of this announcement. The information provided will be considered by the NTP in designing these studies.

Contact may be made by mail to: Dr. William Eastin, NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709, by telephone at 919–541–7941, fax 919–541–4714, or email at Eastin@NIEHS.NIH. GOV.

Dated: September 7, 1994.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 94–22464 Filed 9–9–94; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–017–4331–08]

Availability of the Brown/Howe Dinosaur Area Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Brown/Howe Dinosaur Area Environmental Assessment (EA) for public review and comment.

SUMMARY: The Environmental Assessment for the planning review of the Brown/Howe Dinosaur Area documents the analysis of four alternatives for managing the area, including the Bureau of Land Management's preferred alternative. The planning review area encompasses 5,457 acres of BLM-administered public land in the Cody Resource Area of the BLM's Worland District in Big Horn County, Wyoming.

The planning review is being conducted to evaluate the management needs and issues associated with the discovery of an *Allosaurus* skeleton in the review area. The discovery was made approximately 1 year after the approval of the Cody Resource Management Plan (RMP) and a review of the RMP is needed to evaluate the adequacy of existing management decisions for the management and protection of paleontological resources in the review area. Management actions being considered include designation of the review area as an Area of Critical Environmental Concern (ACEC) and closure of the area to the staking and development of mining claims and closure to entry under the land laws.

Based on preliminary analysis, BLM has established a temporary closure to the staking of mining claims in the planning review area. As part of the planning review, BLM has collected information and conducted analyses described in this Environmental Assessment to determine whether a long-term closure is necessary for the protection of paleontological resources. Based on the results, the Cody RMP will be amended, if necessary.

DATES: Comments must be received by November 14, 1994.

FOR FURTHER INFORMATION CONTACT: Tom Hare, Team Leader, Cody Resource Area, P.O. Box 518, Cody, Wyoming 82414–0518, 307–587–2216; or Bob Ross, Worland District Planner, P.O. Box 119, Worland, Wyoming 82401–0119, 307–347–9871.

SUPPLEMENTARY INFORMATION: Following the discovery of the *Allosaurus* skeleton, the BLM completed a temporary management plan for the lands in and around the fossil discovery area. Protective measures have been initiated and have been in effect pending completion of this planning review. This planning review includes opportunities for public participation.

The steps followed for this planning review are:

1. An interdisciplinary planning team described and analyzed the existing management in the planning review area and described the affected environment.

2. A notice was published in the **Federal Register** informing the public of known and anticipated issues and of opportunities for public participation and comment.

3. Public contracts and meetings were held for scoping and development of the preliminary issues and alternatives.

4. With the help of the public, management alternatives for the area were formulated and analyzed and the BLM's preferred alternative was identified.

5. The alternatives, including the BLM's preferred alternative, and their environmental consequences are described in the EA and the EA is now being issued for public review and comment.

6. A 60-day period will be provided for reviewing and commenting on the EA and for submitting protests on any proposed decisions to be added to or changed in the Cody RMP.

7. The EA will then be revised, as necessary, and a decision record will be issued. If necessary, this decision record will identify and include any needed amendment to the Cody RMP.

Based on the public's input and analysis by the BLM interdisciplinary team, the following issues were identified:

1. Whether or not there is a need to protect important paleontological resources from being damaged by potential surface-disturbing activities in the planning review area, including closure to and withdrawal from possible mining claim and mining-related activities and from possible entry under the land laws (for example, Desert Land Entry).

2. Whether or not the area should be designated an ACEC with management emphasis primarily for research, public education, and recreation, associated with the significant paleontological resources in the area.

The four alternatives analyzed in the EA are:

1. No Action (continuation of existing management).

2. Designating an Area of Critical Environmental Concern (ACEC) of about 5,457 acres with management emphasis on protection of fossils for scientific research and public education.

3. Designating an ACEC of about 5,457 acres with management emphasis on protection of fossils for scientific research and public education, and with mineral location and land law withdrawals of the known fossil concentration area (120.9 acres).

4. Designating an ACEC of about 5,457 acres with management emphasis on protection of fossils for scientific research and public education, and with mineral location and land law withdrawals of the fossil concentration areas and adjacent lands (approximately 4,182 acres). The BLM's preferred alternative is Alternative 3.

Designating the planning review area an ACEC with a 120.9-acre mineral withdrawal under the 1872 Mining Law and withdrawal from operation of land laws represents what the BLM believes is the best balance between the public land and resource uses and environmental protection in the planning review area. The various impacts that would be expected from implementing each of the Alternatives is also presented in the EA.

At the end of the comment/protest period, any of the decisions mentioned above or similar decisions based on public comment would amend the Cody RMP at the time a Decision Record is issued.

Based on the analysis of potential environmental impacts contained in the EA, it has been determined that impacts are not expected to be significant and an Environmental Impact Statement is not needed.

Dated: September 1, 1994.

Robert A. Bennett,

Acting State Director.

[FR Doc. 94–22388 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–22–M

[UT–060–4110–03; 4–00152]

Intent To Prepare a Plan Amendment To Price Resource Area Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent (NOI), Proposal to Amend the Price River Resource Area Management Framework Plan, Moab District.

SUMMARY: The Bureau of Land Management has received a proposal from River Gas of Utah, Inc., to develop a coalbed methane tract encompassing approximately 290 square miles within Carbon County, Utah. Up to 1,000 wells could be developed during the life of the proposed project. As is required, an internal consistency review was performed; and it was determined that this project, as proposed, is not in conformance with existing planning documents. However, since it may have merit, a proposed amendment will be considered.

SUPPLEMENTARY INFORMATION: In order to address this proposed amendment, the Bureau of Land Management will be directing a third-party contractor to prepare an Environmental Impact Statement (EIS) for the proposed amendment. Refer to "NOI to Prepare EIS," published in **Federal Register**, Volume 59, No. 156, August 15, 1994, for additional information regarding the EIS.

DATES: The 30-day comment period on this proposed plan amendment will commence on or before September 12, 1994.

Comments must be submitted on or before October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Daryl Trotter, Planning and Environmental Coordinator, Moab District Office, 82 East Dogwood, P.O. Box 970, Moab, Utah 84532 (801) 259–6111. Comments on this proposed plan amendment should be sent to the above address.

G. William Lamb,

Acting State Director.

[FR Doc. 94–22386 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–020–04–4350–02]

Availability of Environmental Assessment for Animal Damage Control Activities

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Environmental Assessment.

SUMMARY: Notice is hereby given that the Salt Lake District, Bureau of Land Management has prepared an environmental assessment and decision for authorization of animal damage control activities by the Animal and Plant Health Inspection Service in the Salt Lake District. Within 30 days of the printing of this notice, the public has the right of appeal to the Interior Board of Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4.

FOR FURTHER INFORMATION CONTACT: District Manager, Deane Zeller, Salt Lake District, 2370 South 2300 West, Salt Lake City, UT 84119. Telephone 801–977–4300.

Dated: August 30, 1994.

Deane H. Zeller,

District Manager.

[FR Doc. 94–22382 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–DQ–P

[AZ–020–00–4333–04; AZA–25477, 25478, 25481, 25488, 25491, 25496]

Preparation of Several Wilderness Management Plans and Associated Environmental Documents and Invitation To Participate in the Identification of Issues

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare wilderness management plans and environmental documents and host public scoping meetings.

SUMMARY: Notice is hereby given of intent to prepare several wilderness management plans. This notice also constitutes the scoping notice required by the National Environmental Policy Act (40 CFR 1501.7).

(1) Description of proposed planning action: In accordance with Bureau of Land Management wilderness management policy guidance, Wilderness Management Plans will be developed for six wilderness areas. Because several of the areas share similar issues or are in close proximity with each other, the six areas will be covered by three wilderness management plans: one for the Tres Alamos Wilderness, one for the Signal Mountain and Woolsey Peak Wildernesses, and one for the Harquahala Mountains, Hummingbird Springs and Bighorn Mountains Wildernesses. An Environmental Assessment of the impacts of the proposed actions and alternatives will be prepared prior to approval of each plan. The plans will state policies, actions and monitoring standards to be used to maintain each area's wilderness resources and will consider issues and alternatives identified through a number of public forums including scoping meetings. The public is invited to participate in scoping meetings beginning in October 1994.

(2) Geographic areas involved: The six wilderness areas are in the Sonoran Desert of southwestern and south central Arizona, located in Maricopa, eastern La Paz, and southwestern Yavapai Counties. Towns in the vicinity are Bagdad, Wickenburg, Aquila, and Gila Bend. Distances from Phoenix range from 35 miles to the southwest, 55 miles to the west, and 80 miles to the northwest.

(3) Types of issues anticipated: Wilderness values such as naturalness, solitude and primitive recreational opportunities must be preserved. Use of these areas for developed public and commercial recreation, education, research, wildlife and wild burro management, livestock grazing, mining and existing private rights will be assessed. Acceptable levels of these uses as well as for primitive recreation will be identified. Appropriate levels of activity to administer the areas, e.g., assuring public access, providing recreational facilities, signing, law enforcement, search and rescue, wild burro removal, and fire suppression will be determined.

(4) Disciplines to be represented in the preparation of the management plans will include: Wilderness, Recreation, Cultural, Wildlife, Range, Livestock, Wild Burro and Fire Management.

(5) The kind and extent of public involvement to be provided:

Three public scoping meetings will be held to identify issues and opportunities for management of the six areas. These will be held in Gila Bend, Wickenburg and Phoenix, Arizona at the following times and locations:

Tuesday, October 4, 1994, 6 p.m.–9 p.m., Gila Bend Community Center, 202 Euclid Ave., Gila Bend, Arizona.

Wednesday, October 5, 1994, 6 p.m.–9 p.m., Wickenburg Community Center, 160 North Valentine Street, Wickenburg, Arizona.

Thursday, October 6, 1994, 6 p.m.–9 p.m., Phoenix District Office Conference Room, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona.

Written comments regarding issues and opportunities for management will also be accepted until October 15, 1994. Comments should be sent to: Bureau of Land Management, Phoenix District Office, Attn: John R. Christensen, 2015

W. Deer Valley Road, Phoenix, Arizona 85027.

Interested publics will be sent copies of the completed draft Wilderness Management Plans and associated Environmental Assessments and will have 45 days in which to comment. Interest in this mailing will be solicited and a mailing list maintained at the Phoenix District Office.

ADDRESSES: Relevant documents will be available for public review at the Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona, 85027.

FOR FURTHER INFORMATION CONTACT: John C. Jamrog, Bureau of Land Management, Lower Gila Resource Area, Telephone 602–780–8090.

SUPPLEMENTARY INFORMATION: These areas were added to the Wilderness Preservation System by Public Law 101–628, of November 28, 1990, known as the Arizona Desert Wilderness Act of 1990. Management and use of these areas is directed by this law as well as the Federal Land Policy and Management Act of 1976 and the Wilderness Act of 1964. The area involved in this planning effort include 8,300 acres in the Tres Alamos Wilderness, 22,880 acres in the Harquahala Mountains Wilderness, 31,200 acres in the Hummingbird Springs Wilderness, 21,000 acres in the Bighorn Mountains Wilderness, 15,250 acres in the Signal Mountain Wilderness, and 64,000 acres in the Woolsey Peak Wilderness. Areas and activities on non-wilderness land adjacent to the wilderness boundaries may also be addressed in these plans.

These areas are also described in the Lower Gila South and Upper Sonoran Final Wilderness Environmental Impact Statements of 1987 available at the above address.

Dated: September 2, 1994.

Gordon L. Cheniae,

District Manager.

[FR Doc. 94–22392 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–32–P

[WY–920–41–5700; WYW113634]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

August 29, 1994.

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW113634 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW113634 effective March 1, 1994, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Doris M. Miller,

Land Law Examiner.

[FR Doc. 94–22387 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–22–M

Bureau of Reclamation

Navajo Unit, Colorado River Storage Project, Colorado-New Mexico

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of environmental scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act and agency policy, the Bureau of Reclamation, in cooperation with the Public Service Company of New Mexico, will conduct three environmental scoping meetings on the proposal to renew/extend Public Service Company of New Mexico's water service contract. The three meetings will be held to obtain information for use in determining the scope of environmental issues and impacts related to the proposed action. The meetings will also be held to receive information concerning potential effects of the contract renewal/extension on assets held in trust by the Federal government for Federally recognized Indian tribes or individual members of Federally recognized Indian tribes.

DATES: The scoping meetings will be held on:

- October 4, 1994, from 6:00 to 8:30 p.m., in Farmington, New Mexico.
- October 5, 1994, from 6:00 to 8:30 p.m., in Shiprock, New Mexico.
- October 6, 1994, from 6:00 to 8:30 p.m., in Ignacio, Colorado.

At each location, an informational open house will be held from 6:00 p.m. to 7:00 p.m., followed by a presentation on the proposed action and opportunities for public comments and questions. The public is invited.

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

- City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.
- Central Consolidated School Administration Office Boardroom, Shiprock, New Mexico.
- City Hall Community Room, Ignacio, Colorado.

FOR FURTHER INFORMATION CONTACT: The contact person for the environmental scoping effort is Errol Jensen, Bureau of Reclamation, Durango Projects Office, P.O. Box 640, Durango, Colorado 81302, telephone (303) 385–6570. Written comments regarding the proposed action, and requests to be included on a mailing list should be mailed to Resource Sciences Group, 2737 Rio Grande Boulevard NW, Albuquerque, New Mexico 87014.

SUPPLEMENTARY INFORMATION: The Public Service Company of New Mexico currently has a water service contract (USBR Contract No. 14–06–400–4831) with the Bureau of Reclamation for an annual use of 16,200 acre-feet of water from Navajo Reservoir, in San Juan County, New Mexico. The contract water is diverted from the San Juan River near Waterflow, New Mexico, via a weir and backwater pumping system. Water is stored in a small reservoir at the San Juan Generating Station. The existing water service contract was executed in 1968, amended in 1977, and expires in 2005.

The Bureau of Reclamation is the lead Federal agency to ensure compliance with the National Environmental Policy Act for the proposed action. The Public Service Company of New Mexico has requested the Bureau of Reclamation to initiate the environmental scoping process and prepare the environmental document. The Bureau of Reclamation is initiating the scoping process now to allow sufficient time to identify and resolve (1) environmental concerns, and (2) any issues affecting any assets held in trust by the Federal government for Federally recognized Indian tribes or individual members of Federally recognized Indian tribes insofar as those concerns or issues are relevant to the proposed water service contract renewal and extension.

Dated: September 2, 1994.

Rick L. Gold,

Regional Director.

[FR Doc. 94–22423 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Environmental Statements; Availability, etc.: Creve Coeur Lake Memorial Park, MO

ACTION: Extension of Public Review Period, Creve Coeur Lake Memorial Park Draft Supplemental Environmental Impact Statement.

SUMMARY: On July 5, 1994, the National Park Service announced a public review period for the draft supplemental Environmental Impact Statement for Creve Coeur Lake Memorial Park section 6(f) replacement. This notice extends the public review period by 15 days to September 9, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Clay McDermeit, Chief, Western Heartland Division, Recreation Assistance Programs, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102 (402) 221–3203.

Dated: August 31, 1994.

James Stewart,

Acting Associate Director, Planning and Development.

[FR Doc. 94–22374 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–70–P

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 7:30 p.m. (PDT) on Thursday, September 22, 1994 at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco, California, to hear presentations on issues related to management of the Golden Gate National Recreation Area and Point Reyes National Seashore.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R.H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

The main agenda item at this meeting will be an update report on the Presidio planning process and transfer activities to the National Park Service, including a report on the Presidio General Management Plan Amendment (GMPA) and Environmental Impact Statement (EIS) released August 1994. The Presidio of San Francisco will transfer from the Department of Defense to Department of the Interior on October 1, 1994.

Also on the agenda will be a report on work of the Golden Gate National Park Association, a Marin Committee report and possible Commission action on plans for the Bay Area Discovery Museum, a Point Reyes Committee report and possible Commission action on the Tomales Bay Protection Bill, and a report on GGNRA education programs.

The meeting will also contain a Superintendent's Report on GGNRA housing issues.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript will be available after October 14, 1994. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: August 25, 1994.

Patricia L. Neubacher,

Acting Regional Director, Western Region.

[FR Doc. 94–22375 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–70–P

Strategic Plan; Availability

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the strategic plan for the National Park Service. The plan specifies goals and objectives for the National Park Service to be used over the next several years. Key elements of the plan include: establishing a scientific and scholarly basis for resource management decisions; strengthening protection of park resources; achieving sustainability in all park operations and development; helping people forge emotional, intellectual and recreational ties with their natural and cultural heritage; leading a national initiative to strengthen the recognition and perpetuation of heritage resources and their public benefits; becoming a more responsive, efficient, and accountable organization; and pursuing maximum public benefit through contracts, cooperative agreements, contributions, and other alternative approaches to support park operations.

ADDRESSES: Copies of the plan can be obtained from the Technical Information Center, National Park Service, P.O. Box 25287, Denver, Colorado 80225, (303) 969–2130.

FOR FURTHER INFORMATION CONTACT: Heather Huyck, Strategic Planning Division, National Park Service, P.O. Box 25287, Denver, Colorado 80225, (303) 969–7012.

Dated: August 30, 1994.

James Stewart,

Acting Associate Director, Planning and Development.

[FR Doc. 94–22373 Filed 9–9–94; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–402 (Sub-No. 2X)]

Fox Valley & Western Ltd.—Abandonment Exemption—Kewaunee County, WI

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 Fox Valley & Western Ltd (FVW) of a 12.35-mile rail line extending between milepost 22.69, near Casco Junction, and milepost 35.04, near Algoma, in Kewaunee County, WI. This exemption is 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 October 12, 1994. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)[1] must be filed by September 22, 1994, petitions to stay must be filed by September 27, 1994, requests for a public use condition

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

conforming to 49 CFR 1152.28(a)(2) must be filed by October 3, 1994, and petitions to reopen must be filed by October 7, 1994.

ADDRESSES: Send pleadings referring to Docket No. AB–402 (Sub-No. 2X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and (2) Janet H. Gilbert, Assistant General Counsel, Wisconsin Central Ltd., P.O. Box 5062, Rosemont, IL 60017–5062.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [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: (202) 927–5721.]

Decided: August 29, 1994.

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

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–22465 Filed 9–9–94; 8:45 am]

BILLING CODE 7035–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on September 22, 1994 from 10:30 a.m. to 6:00 p.m. in Room 527, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topic of discussion will be long-range planning for the agency.

Interested persons may attend this meeting as observers. Seating space for observers is limited. If you plan to attend this meeting or wish further information about it, please contact Katherine Christie of the Public Affairs Office at 202/682–5570.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Yvonne M. Sabine,

Director, Office of Panel Operations, National Endowment for this Arts.

[FR Doc. 94–22396 Filed 9–9–94; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power & Light Company, Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80 of the proposed corporate restructuring of Pennsylvania Power & Light Company (PP&L), the co-owner and licensee of the Susquehanna Steam Electric Station, Units 1 and 2 (Susquehanna). By letter dated July 25, 1994, Robert G. Byram, Senior Vice President-Nuclear of PP&L, informed the Commission that the Board of Directors has proposed a corporate restructuring plan to be presented at the annual meeting of shareholders scheduled for April 26, 1995. If a majority of the shareholders approve the plan, PP&L will become a wholly-owned subsidiary of a new holding company named PP&L Resources, Inc. (Resources). PP&L would remain as holder of the licenses for the aforementioned facilities. If the plan is approved, the common stock of PP&L will be converted on a share-for-share basis into common stock of the holding company, and there will be no effect upon the management, operation, and financing of the PP&L nuclear facilities.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license, after notice to interested persons. Such action is contingent upon the Commission's determination that the holder of the license and the transfer of such control is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

Dated at Rockville, Maryland, this 1st day of September 1994.

Mohan C. Thadani,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–22483 Filed 9–9–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, September 22, 1994
Thursday, October 6, 1994
Thursday, October 20, 1994
Thursday, November 3, 1994
Thursday, November 17, 1994
Thursday, December 1, 1994
Thursday, December 15, 1994

The meetings will start at 10:45 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5348.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, Chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in opening session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report to pay issues discussed, concluded recommendations.

and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Ways Systems pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1990 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: September 2, 1994.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate, Advisory Committee.

[FR Doc. 94–22351 Filed 9–9–94; 8:45 am]

BILLING CODE 6325–01–M

PANAMA CANAL COMMISSION

Agency Information Collection Request submitted to the Office of Management and Budget for clearance.

AGENCY: Panama Canal Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction of 1980 (Pub. L. 96–511), as amended, the Panama Canal Commission hereby gives notice that it has submitted to the Office of Management and Budget for clearance a SF–83 (Request for OMB Review) for a currently approved collection of information contained in Subchapter C (Shipping and Navigation) of Chapter I, Title 35, Code of Federal Regulations (CFR).

ADDRESSES: Comments may be sent to Edward H. Clarke, Desk Officer for Panama Canal Commission, Office of Information and Regulatory Affairs, Room 3228, New Executive Office Building, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the collection of information or related information, contact Barbara Fuller, Office of the Secretary, Panama Canal Commission, telephone 202–634–6441.

SUPPLEMENTARY INFORMATION:

Title: Subchapter C (Shipping and Navigation) of Chapter I, 35 CFR.

Type of Request: Revision of a currently approved collection.

Respondents: Businesses or other for profit.

Estimated Number of Respondents: 14,700.

Estimated Hours Per Response: 2 hours.

Estimated Total Burden Hours: 29,400.

Frequency of Response: On occasion.

Needs and Uses: On December 24, 1981, OMB approved an information collection proposal submitted by the Panama Canal Commission in conjunction with a revision of its navigation regulations (35 CFR Chapter I, Subchapter C), and assigned it the control number 3207–0001. The forms required by those regulations (which make up the collection of information) are used to collect, from vessels arriving in the Panama Canal waters, information required for assuring that the vessels are in compliance with Panama Canal Commission shipping and navigation regulations. The information collected will be used for economic analyses, traffic forecasting, identification, billing, safety and sanitation purposes. It is estimated that the burden (which varies widely, depending upon the nature of each vessel's operations) for cargo vessels ranges from five minutes to four hours per response. The burden will be lessened for those vessels having the capability of producing computer-generated cargo declarations. For passenger vessels, the range would be from approximately two hours to thirteen hours. The utilization of computer-generated crew and passenger lists should reduce by eight to ten hours the time required of a vessel like the QUEEN ELIZABETH 2, (the smallest "passenger" vessels carry about 13 passengers and the largest, the QUEEN ELIZABETH 2, is capable of accommodating about 1,879). It would be very difficult to provide a meaningful estimate of the total burden for each vessel since some transit frequently, while others may transit only once or infrequently.

Dated: August 30, 1994.

James E. Ferrara,

Director, Office of Executive Administration and Transition Coordination, Senior Official for Information Resources Management.

[FR Doc. 94–22406 Filed 9–9–94; 8:45 am]

BILLING CODE 3640–04–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34643; File No. SR–CSE–94–9]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Amending Its Fees for Designated Dealers

September 6, 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 August 11, 1994, the Cincinnati Stock Exchange, Inc. ("CSE" 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. On August 15, 1994, the CSE submitted to the Commission Amendment No. 1 to the proposed rule change.[1] On August 18, 1994, the CSE submitted to the Commission Amendment No. 2 to the proposed rule change.[2] 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 CSE is proposing to amend Exchange fees for designated dealers.[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

[1] See letter from Robert P. Ackermann, Vice President, Regulation, CSE, to Louis A. Randazzo, Attorney, Division of Market Regulation, SEC, dated August 15, 1994. Amendment No. 1 withdrew the section of the proposal relating to CSE membership fees.

[2] See letter from Robert P. Ackermann, Vice President, Regulation, CSE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated August 18, 1994. Amendment No. 2 added certain clarifying language to the Proposed fee amendment.

[3] The text of the proposed fee amendment was included as Exhibit 1 to File No. SR–CSE–94–9, and is available at the locations specified in Section IV of this filing.

Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has revised certain fees associated with the activity of Designated Dealers [4] as it relates to their transactions on the CSE. The revisions became effective on the date the fee change was filed with the Commission. The changes are as follows: (1) Designated Dealer base fees are reduced from $0.01125 per share to $0.0075 per share; (2) member proprietary trades are increased from $0.015 per share to $0.02 per share; (3) no fee will be imposed for transactions in tape B securities; [5] (4) the minimum average per share for a Designated Dealer is reduced from $0.0047 per share to $0.0046 per share; and (5) the second level of fees for Designated Dealers that preference transactions has been reduced from $0.0018 per share to $0.0015 per share.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it is not designated to permit unfair discrimination between customers, issuers, brokers and dealers and in general is designed to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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.

[4] A "Designated Dealer" is defined as a proprietary member who maintains a minimum net capital of at least the greater of $100,000 or the amount required under Rule 15c3–1 of the Act, and who has been approved by the Securities Committee to perform market functions by entering bids and offers for designated issues into the system. See CSE Rule 11.9(a)(3).

[5] The Exchange stated that Tape B securities are American Stock Exchange, Inc. ("Amex") listed securities.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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. Copies of the filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–94–9 and should be submitted by October 3, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22468 Filed 9–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34639; File No. SR–NASD–94–34]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Fees for the Late Payment of Service Charges

September 2, 1994.

I. Introduction

On May 27, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 adopt a uniform and consistent methodology for assessing fees for late payment of Nasdaq Stock Market service charges. On July 29, 1994, the NASD filed with the Commission Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, as amended, was published for comment in Securities Exchange Act Release No. 34479 (August 2, 1994), 59 FR 40632 (August 9, 1994). No comments were received on the proposal.

II. Description of the Proposal

The NASD proposal amends Part IX of Schedule D to the NASD By-Laws to establish a uniform and consistent methodology for assessing fees for the late payment of The Nasdaq Stock Market, Inc. ("NSM") charges. The late fee will be applied to all charges imposed by NSM that are past due 45 days or more. The late fee will be computed by taking the summation of one and one-half percent (1½%) of the amount past due for the first month, plus one and one-half percent (1½%) of the amount past due for any month thereafter, compounded by late fees assessed for previous months. For example, if an account is past due $1,000 for 45 days, the late fee would be $30.22. This charge reflects a charge of $15 for the first month past due ($1,000 × 1½%) and $15.22 for the second month past due ($1,015 × 1½%).

The new late fee structure will replace the existing structure (found in section H of Part IX of Schedule D to the By-

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] Amendment No. 1 to the proposal corrects a mathematical error in an example provided in the language of the proposed rule change, and explains that the new late fee established by the proposal will be assessed to accounts that are in arrears prior to the implementation of the new late fee charge. Letter from Joan Conley, Corporate Secretary, NASD, to Elizabeth MacGregor, Branch Chief, Commission, dated July 28, 1994.

Laws) which provides that charges for Nasdaq Level 1 and Nasdaq/NMS Last Sale services which are past due 45 days will be assessed a fee equal to 1½% per months of the unpaid balance. For all other Nasdaq charges, namely, charges for the Nasdaq Level ⅔ service, Over-the-Counter Bulletin Board ("OTCBB"), Mutual Fund Quotation Program, and Nasdaq Workstation service (collectively referred to hereinafter as "Nasdaq charges"), the late payment fee presently is equal to 10% of the amount past due for 60 days or more. By eliminating the current practice of using these two different methods to assess late fees for various NSM charges, the NASD believes its operational efficiency will be enhanced and public confusion concerning the NASD's late fee policy likely will be diminished.

The proposal also will amend Section H of Part IX of Schedule D to the By-Laws to provide that the section governs fees for the late payment of NSM charges instead of "NASDAQ charges." This amendment reflects the merger, effective June 30, 1993, of two of the NASD's corporate subsidiaries, Nasdaq, Inc. and NASD Market Services, Inc. ("MSI") into one consolidated subsidiary called The Nasdaq Stock Market, Inc. In addition, this amendment serves to subject charges for services provided by MSI (the NSM after the merger) to late payment fees (*e.g.*, SOES, SelectNet, and ACT charges). Currently, other than for Nasdaq/NMS Last Sale service charges, there is no fee for the alter payment of service charges that previously were assessed by MSI but now are assessed by the NSM after the merger.

III. Commission's Findings

The Commission believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act. Section 15A(b)(5) requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls. Specifically, by instituting a uniform and consistent policy for assessing fees for the late payment of service charges, to be imposed as described above, the Commission believes the late payment of fees is reasonable and equitably allocated.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[4] that the proposed rule change (SR–NASD–94–34) is approved.

[4] 15 U.S.C. § 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22467 Filed 9–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34633; File No. SR–NYSE–94–21]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Customer Account Transfer Contracts

September 2, 1994.

On June 16, 1994, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NYSE–94–21) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published on June 29, 1994, in the **Federal Register** to solicit comments on the proposed rule change.[2] Two comment letters were received in favor of the proposal.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

A. Description

NYSE is amending its Rule 412, Customer Account Transfer Contracts, and its related interpretations in order to incorporate into its customer account transfer process enhancements the National Securities Clearing Corporation ("NSCC") has made to its Automated Customer Account Transfer ("ACAT") service. Presently, the transfer time for transferring customers' cash or margin accounts is ten business days and is fifteen business days for transferring retirement accounts. The proposed amendments will reduce the time period for transferring customers' cash, margin, and retirement accounts to seven business days. This will be accomplished by reducing the five business day validation period for accounts to three business days[4] and by reducing the delivery period from five business days to four business days.[5] The rule change also mandates the use of an automated customer account transfer system for transferring mutual fund positions where both the receiving broker-dealer and the delivering broker-dealer are participants in a registered clearing agency which has such a facility.[6]

Where both receiving and delivery member organizations participate in a registered clearing agency with an automated customer account transfer system with residual credit processing capabilities, the rule change requires the members to utilize such facilities to transfer residual credit positions which accrue to an account after transfer. Member organizations already are required to transfer credit balances accruing in a transferred account within ten business days after accrual for a minimum of six months following the transfer. This requirement applies to all member organizations regardless of whether they utilize an automated customer account transfer system.

The rule change also permits partial customer account transfers to be accomplished through a registered clearing agency's automated customer account transfer system. Presently, partial transfers are accomplished outside of the system. The time frames required by Rule 412 for transfer of entire customer accounts do not apply to partial transfers. However, the NYSE states in its filing and in existing interpretations to NYSE Rule 412 that member organizations are expected to expedite partial transfers of customer accounts.[7]

In an effort to facilitate communication between organizations and improve exchange oversight, the NYSE will provide more explicit reason codes for rejection of customer account transfers.[8] However, NYSE's new reason codes will become effective only after NSCC implements system changes which will allow use of such reason codes.[9] Also, member organizations that receive an account transfer related claim letter will be required to resolve the claim within five business days or

[5] 17 CFR 200.30–4(a)(12) (1991).

[1] 15 U.S.C. 78s (b)(1) (1988).

[2] Securities Exchange Act Release No. 34246 (June 22, 1994), 59 FR 33559 [File No. SR–NYSE–94–21].

[3] Letter from John E. Nolan, Senior Vice President, Operations and Compliance, Raymond James & Associates, Inc., to Jonathan G. Katz, Secretary, Commission (July 15, 1994) and letter from Kevin Farragher, Director of Operations, Distribution & Service, The Investment Company Institute, to Jonathan G. Katz, Secretary, Commission (July 11, 1994). The comment letters are discussed in detail in Section B below.

[4] The rule change deletes the interpretation that permitted a ten day validation period for retirement accounts. NYSE Rule 12, Interpretation (f)/01.

[5] NYSE Rule 412(b).

[6] NYSE Rule 412(e)(2).

[7] NYSE Rule 412, Interpretation (a)/01.

[8] NYSE Rule 412, Interpretation (b)(1)/02.

[9] Telephone conversation between Rudy Schrieber, Senior Special Counsel of Rule and Interpretive Standards, NYSE, and Jerry W. Carpenter, Assistant Director, Division, Commission (August 30, 1994). See NYSE Rule 412, Interpretation (b)(1)/02.

respond in writing setting forth specific reasons for denying the claim.[10]

The amendments relating to use of an automated system for transferring mutual fund positions and residual credit processing will become effective 180 calendar days after Commission approval of the amendments. All other amendments referred to above will become effective ninety days after Commission approval.

B. Comments

As noted above, two comments were received in support of the proposed rule change. One letter addressed only that portion of the rule change dealing with the mandatory participation in NSCC's ACAT service.[11] The commenter noted that the ACAT service benefits broker-dealers and mutual fund companies, but the retail investor is the ultimate benefactor of the process. The commenter also stated that unless the Commission makes participation mandatory, the process of transferring mutual fund assets will continue to be done manually in some instances and possibly will take months to complete. According to the commenter, this subjects the beneficial shareholders of mutual fund shares to market fluctuation due to the inability to redeem or exchange their shares.

The second letter strongly recommends adopting the proposed rule change citing the changes pertaining to ACAT as its primary concern.[12] According to this commenter, the benefits of ACAT-Fund/Serv are twofold. The first advantage is the timely, high quality customer service provided through ACAT. The second advantage is the cost savings arising from its efficiency compared to the highly inefficient manual means used to effect the transfer of mutual fund accounts from one broker-dealer to another.

This commenter cited the standardized settlement cycle and the decrease in the amount of work the fund ultimately has to do as one of the most important aspects of ACAT-Fund/Serv transfers. A standardized settlement cycle safeguards shareholder accounts from market fluctuation by limiting the duration of the "fail to receive" period during which shares are unavailable for redemption or exchange.

[10] NYSE Rule 412(d).

[11] Letter from John E. Nolan, Senior Vice President, Operations and Compliance, Raymond James & Associates, Inc., *supra* note 3.

[12] Letter from Kevin Farragher, Director of Operations, Distribution & Service, The Investment Company Institute, *supra* note 3.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 6(b)(5).[13] 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.[14] For reasons set forth below, the Commission believes that the NYSE's amendments are consistent with the requirements of Section 6(b)(5).

Shortening the time period for transferring accounts from ten days to seven days is appropriate because of the enhanced automation of the process by member organizations and clearing agencies. The shortened time period should be beneficial to both customers and member organizations. In addition, reducing the time allowable for account transfers is consistent with Commission Rule 15c6–1 mandating a three business day settlement cycle effective June 1, 1995.[15]

The development by registered clearing agencies of automated systems to transfer mutual funds positions and residual credit balances and their mandatory use should benefit both customers and member organizations by increasing efficiency, reducing paperwork, and providing significant cost savings. Permitting partial account transfers to be accomplished through automated account transfer systems should allow member organizations to provide more efficient and expeditious transfers. The use of NYSE's more explicit reject codes should help reduce unnecessary back office operations functions and should allow members to determine the exact reason for rejections of customer account transfers. The new reject codes also will allow the NYSE to better monitor its members' rejections. The amendments requiring the resolution or denial of claim letters within five business days should help provide a regulatory framework in an area where no specific requirements currently exist and should expedite resolution of such claims.

[13] 15 U.S.C. 78f(b)(5) (1988).

[14] *Id.*

[15] For a complete description of Rule 15c6–1, refer to Securities Exchange Act Release No. 33023 (October 13, 1993), 58 FR 52891 [File No. S7–5–93] (adopting Commission Rule 15c6–1).

III. Conclusion

The Commission finds that the proposal is consistent with the requirements of the Act and particularly with Section 6(b)(5) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–94–21) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22469 Filed 9–9–94; 8:45 am]

BILLING CODE 8010–01–M

[16] 17 CFR 200.30–3(a)(12) (1993).

[Rel. No. IC–20527; 812–9088]

Kidder, Peabody Premium Account Fund, et al.; Notice of Application

September 2, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Kidder, Peabody Premium Account Fund (the "Premium Account Fund") and Kidder, Peabody Government Money Fund, Inc. (the "Money Fund").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from rule 24f–2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit them to pay a share registration fee due under rule 24f–2 for its 1993 fiscal year based on net sales, *i.e.*, new sales minus redemptions, rather than on gross sales, *i.e.*, with no credit for redemptions.

FILING DATE: The application was filed on July 1, 1994, and amended on August 31, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested parties 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 September 27, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request

notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 60 Broad Street, New York, New York 10004–2350.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, 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. Applicants, registered open-end investment companies, have filed declarations pursuant to rule 24f–2 under the Act to register an indefinite amount of shares under the Securities Act of 1933.

2. An investment company that has filed a declaration under rule 24f–2 must file annual notices with the SEC and pay share registration fees for shares sold in the previous fiscal year. If the rule 24f–2 notice is filed within two months after the close of the investment company's fiscal year, the amount of the registration fee is based on net sales (new sales minus redemptions) in the year in question. If the rule 24f–2 notice is not filed within two months, the registration fee is based on gross sales (with no credit for redemptions). At the latest, the rule 24f–2 notice along with the appropriate registration fee must be filed within six months after the end of an investment company's fiscal year.

3. Applicants' fiscal years end on March 31. An officer of applicants mailed applicants' rule 24f–2 notices for fiscal year 1993 on May 15, 1994, fifteen days before the two-month deadline. Because the Premium Account Fund had net sales in 1993, the notices were accompanied by $5,288.99, the fee payable to register the shares sold by the Premium Account Fund in excess of redemptions. The Money Fund had net redemptions in 1993 and, accordingly, no registration fee was due. However, the filings were not received in the SEC's mail room until June 6, 1994, and were rejected as having been filed too late to be eligible for a registration fee based on net sales. Thus, absent relief, applicants owe registration fees based on gross sales. For fiscal year 1993, this would amount to an additional $1,496,343.19 for the Premium Account Fund and $492,673.54 for the Money Fund.

Applicants' Legal Analysis

1. Section 6(c) permits the SEC to exempt any person, security, or transaction from any provisions of the Act if and to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In addition, the SEC must find that an investment company was not at fault to grant an exemption from the two month filing deadline of rule 24f–2.[1]

2. Applicants believe that they acted in good faith in mailing their rule 24f–2 notice fifteen days before the filing deadline. Applicants state that, except for "an extraordinary delay in the mails," the filings should have been received by the SEC well before the deadline.

3. Applicants believe that the requested relief meets the section 6(c) standards. Thus, applicants request an exemption under section 6(c) from rule 24f–2 to permit them to pay registration fees based on net sales.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22380 Filed 9–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26117; International Series Release No. 711]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 2, 1994.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 26, 1994 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–8062)

Northeast Utilities ("Northeast"), 174 Brush Hill Ave., West Springfield Massachusetts 01089, a registered holding company, and its wholly owned subsidiaries, Charter Oak Energy, Inc. ("Charter Oak") and COE Development Corporation ("COE Development") (collectively, "Applicants"), each located at 107 Selden Street, Berlin, Connecticut, 06037–1616, have filed a further post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), and 33 of the Act and rules 45 and 53 thereunder to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b), and 13(b) of the Act and rules 45, 87, 90, and 91 thereunder.

By order dated January 24, 1994 (HCAR. 25977) ("January 1994 Order") Charter Oak and COE Development were authorized to engage in preliminary development activities and make investments in and finance the acquisition of exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs") in the amount of $100 million through December 30, 1994.[1] The January 1994 Order also authorized the Applicants to issue guarantees and assume the liabilities of subsidiary companies for preliminary development activities.

The Applicants now propose to finance the acquisition, and hold the securities, of: (i) foreign utility companies ("FUCOs"), as defined in Section 33 of the Act, subject to certain limitations; and (ii) companies ("Intermediate Companies") engaged directly or indirectly and exclusively in the business of owning and holding the securities of one or more FUCOs and/or exempt wholesale generators ("EWGs"),

[1] *See* Decision of the Comptroller General of the United States, File No. B–239769.2 (July 24, 1992).

[1] The Applicants stated in post-effective amendment number 5 to their application-declaration that they would not acquire an interest in an intermediate holding company of Northeast that holds, or would acquire, an interest in a FUCO without prior Commission approval, unless and until the Commission adopts rules that provide that intermediate companies themselves may be considered FUCOs under the Act. The January 1994 Order authorized post-effective amendment number 5.

as defined in Section 32 of the Act, subject to certain limitations. Investments in and financings of FUCOs and Intermediate Companies will be subject to the $100 million limit authorized in the January 1994 Order. The financings and investments in FUCOs and Intermediate Companies may take the same form and will be subject to the same restrictions and conditions as set forth in the January 1994 Order.

In addition, the Applicants propose to issue guarantees and assume the liabilities of FUCOs and Intermediate Companies in connection with development activities, including construction and permanent financing. Until such time as there is no possibility of a claim against Northeast or Charter Oak, the full contingent amount of any such guarantees and assumptions of liability would be included in the $100 million limit authorized in the January 1994 Order.

The Applicants state that they have found that the ability to respond quickly to investment opportunities in FUCOs and finance the acquisition, and hold the securities, of Intermediate Companies to make such investments is necessary in order to compete effectively in this market in accordance with the principles set forth in the Energy Policy Act of 1992. The Applicants also state that the use of Intermediate Companies is often necessitated by business concerns such as foreign ownership requirements in countries where FUCOs are located or to facilitate investments via a consortium of companies where each member of the consortium has a consolidated subsidiary involved in the final FUCO structure for tax and accounting purposes and to ease subsequent adjustments to or sales of interests among members of the ownership group.

EUA Cogenex Corporation (70–8441)

EUA Cogenex Corporation ("Cogenex"), Boot Mills South, 100 Foot of John Street, Lowell, Massachusetts, 01852, a non-utility subsidiary of Eastern Utilities Associates ("EUA"), a registered holding company, has filed an application-declaration under Sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and Rules 43, 45, 86, 87, 90 and 91 thereunder.

Cogenex proposes to form and finance a new non-utility subsidiary, EUA Cogenex—Canada ("Cogen Canada"). Cogen Canada would consult and provide energy management and demand-side management services to institutional customers in Canada. Specifically, Cogenex seeks Commission authorization through December 31, 1996 for (a) the organization of Cogen Canada under the laws of Canada and (b) the acquisition by Cogenex of all 100 shares of common stock to be issued by Cogen Canada for $1.00 each. Additionally, Cogenex seeks Commission authorization through December 31, 1995 to provide equity and debt funding for Cogen Canada and for Cogen Canada to borrow from third parties in amounts not to aggregate more than $20 million outstanding.

Also, Cogenex seeks Commission authorization through December 31, 1997 to sell certain equipment and services to Cogen Canada and for EUA Service Corporation ("EUASC") to provide certain management, financial and other services to Cogen Canada. Cogenex would charge Cogen Canada for such goods and services on a fair market value basis.

By order dated December 19, 1986 (HCAR No. 24273) ("1986 Order"), the Commission authorized EUA to acquire the predecessor corporation of Cogenex, in order to provide certain energy management services in New England and, to a limited extent, outside New England. By order dated September 17, 1992 (HCAR No. 25636) ("1992 Order"), the Commission authorized Cogenex to provide additional energy management and demand-side management ("DSM") services and to develop cogeneration projects. The 1992 Order also expanded the area in which such services could be provided without limitation to New York (together with New England, "Base Region"). By order dated June 29, 1993 (HCAR No. 25839) ("1993 Order"), the Commission authorized Cogenex to borrow up to $50 million from EUA in short-term debt through December 31, 1995.

The 1986 and 1992 Orders authorized Cogenex to provide energy management and DSM services without limitation to customers within the Base Region. These orders also authorized Cogenex to provide such services to customers outside the Base Region provided that the revenues for such services to those customers not exceed the revenues for such services inside the Base Region ("Fifty Percent Requirement"). The 1986 and the 1992 Orders imposed no restriction on revenues from consulting services.

Cogen Canada and Cogenex would provide energy management and DSM services outside the Base Region, subject to the Fifty Percent Requirement. The application-declaration proposes, however, that revenues from such services in the provinces of Ontario, Quebec and New Brunswick be included in the revenues of the Base Region and purposes of assessing compliance with the Fifty Percent Requirement. Cogenex also proposes that there be no restriction on revenues of Cogenex and Cogen Canada from consulting services and that Cogenex be permitted to market its consulting services worldwide.

Cogenex seeks authorization through December 31, 1995 to provide EUA with debt and equity financing ("Cogenex Investments"). Such funds would take the form of additional acquisitions of common stock, capital contributions, open account advances and/or short-term loans. All short-term loans and advances by Cogenex to Cogen Canada would be made on the basis of the terms available to Cogenex on short-term loans from EUA under the 1993 Order. Specifically, these arrangements provide for borrowings at the prime rate or money market rates, together with a commitment fee of ¼ of 1%. Each such loan or advance would mature in one year or less.

Cogenex also seeks authorization through December 31, 1997 for Cogen Canada to borrow on a short-term basis from third parties, which debt may be guaranteed by Cogenex. The interest rate on such debt denominated in dollars would not exceed the commercial base rate at the First National Bank of Boston at the time a loan is made. The interest rate on such debt denominated in Canadian dollars would not exceed the Canadian prime rate as published in the *Wall Street Journal* at the time a loan is made. All loans from third parties would mature in no more than one year and, together with the Cogenex Investments, would not aggregate more than U.S. $20 million outstanding at any one time.

Cogenex proposes that Cogen Canada enter into an agreement with EUA Service Corporation ("EUASC"), pursuant to which EUASC would render certain management, financial, accounting and other services to Cogen Canada. Cogenex further requests authority through December 31, 1997 to provide equipment and services to Cogen Canada, as and when needed, on a fair market value basis, but at no less than cost. Cogenex also proposes licensing the use of certain know-how, technologies, models and systems to Cogen Canada appropriate for conservation and load management services.

Consolidated Natural Gas Company, et al. (70–8447)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its wholly-owned, nonutility subsidiary companies,

Consolidated System LNG Company, CNG Research Company, CNG Energy Company ("CNG Energy") and Consolidated Natural Gas Service Company, Inc., located at CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, CNG Coal Company, CNG Producing Company and its subsidiary, CNG Pipeline Company, located at CNG Tower, 1450 Poydras Street, New Orleans, Louisiana 70112–6000, CNG Transmission Corporation ("CNGT") and CNG Storage Service Company, located at 445 West Main Street, Clarksburg, West Virginia 26301, CNG Gas Services Corporation, located at One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244–0746, and Consolidated's wholly owned public utility subsidiary companies, The Peoples Natural Gas Company, located at CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, The East Ohio Gas Company, 1717 East Ninth Street, Cleveland, Ohio 44115, Virginia Natural Gas, Inc., 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23501–3488, Hope Gas, Inc., P.O. Box 2868, Clarksburg, West Virginia 26302–2868, and West Ohio Gas Company, 319 West Market Street, Lima, Ohio 45802, have filed an application-declaration ("Application") under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 16, 43 and 45 thereunder. The Application requests Commission approval for the proposed activities described herein through July 1, 2004.

Consolidated proposes to create and acquire through its subsidiary, CNG Energy, a newly formed corporation, CNG Market Center Services, Inc. ("CNGMC"). CNGMC was incorporated under the laws of the State of Delaware on June 24, 1994, with an authorized equity capitalization of $2 million consisting of 200 shares of common stock, $10,000 par value each. CNGMC proposes to issue up to 200 shares of its common stock to CNG Energy, at a price of $10,000 per share, to become a special purpose, wholly-owned subsidiary of CNG Energy.

CNGMC will own a 50% general partnership interest in a Delaware partnership ("Partnership") to be set up to develop and operate a new natural gas market center to be called the "CNG/Sabine Center." The other 50% general partnership interest in the Partnership will be owned by Sabine Hub Services Company, a wholly-owned subsidiary of Texaco, Inc. CNGMC proposes to make capital contributions to the Partnership in the aggregate amount not to exceed $2 million.

The CNG/Sabine Center will introduce the "super-hub" concept by offering services at points along the 7,400 mile pipeline system of CNGT, a wholly-owned pipeline subsidiary of Consolidated. The Application states that the use of the CNGT pipeline system would be under the open-access provisions of Order 636 of the Federal Energy Regulatory Commission as now applicable to CNGT. Initial services to be provided by the Partnership will consist of an intra-hub transfer service, a market activity reporting service, and a transportation, parking and short-term storage agency service. In addition, other gas market center services may also be offered at the CNG/Sabine Center to meet the evolving needs of the natural gas industry. The Application states that the proposed activities of the Partnership satisfy the requirements of either Section 2 (a) or (b) of the Gas Related Activities of 1990.

CNG Energy proposes to raise funds to invest in CNGMC, and CNGMC in turn proposes to raise funds to invest in the Partnership, by (i) selling shares of its respective common stock ($1,000 par value each in the case of CNG Energy and $10,000 par value each in the case of CNGMC) to the issuer's immediate parent; (ii) open account advances from the borrower's immediate parent, or the CNG System Money Pool ("Money Pool");[2] and/or (iii) long-term loans from the borrower's immediate parent, in any combination thereof, provided that the amounts and terms of CNG Energy to CNGMC financing (or Money Pool in the case of open account advances) shall be the mirror image of the same respective type of Consolidated to CNG Energy financings. CNGMC proposes to become a full participant to the Money Pool.

The open account advances and long-term loans will have the same effective terms and interest rates as related borrowings of Consolidated in the forms listed below: (1) Open account advances may be made to the borrower to provide working capital. Open account advances may be made, repaid and remade on a revolving basis, and all such open account advances will be repaid on or before a date not more than one year from the date of the first advance to such borrower with interest at the same effective rate of interest as Consolidated's weighted average effective rate of commercial paper and/or revolving credit borrowings. If no such borrowings are outstanding, then the interest rate shall be predicated on the Federal Funds' effective rate of interest as quoted daily by the Federal Reserve Bank of New York. Such advances may be made through the Money Pool. (2) Consolidated or CNG Energy may make long-term loans to its respective immediate subsidiary, CNG Energy Or CNGMC, for the financing of its activities described herein. Loans shall be evidenced by long-term non-negotiable notes of the borrower (documented by book entry only) maturing over a period of time (not in excess of 30 years), with the interest rate predicated on and equal to Consolidated's cost of funds for comparable borrowings. In the event Consolidated has not had recent comparable borrowings, the rates will be tied to the Salomon Brothers Inc. indicative rate for comparable debt issuances published in Salomon Brothers Inc. Bond Market Roundup or similar publication on the date nearest to the time of takedown. All loans may be prepaid at any time without premium or penalty.

The Application states that Consolidated will obtain the funds required for CNG Energy through internal cash generation, issuance of long-term debt securities, borrowings under credit agreements or through other authorizations approved by the Commission subsequent to the effective date of this Application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22381 Filed 9–9–94; 8:45 am]

BILLING CODE 8010–01–M

[2] The Application states that the Money Pool was authorized by Commission order dated June 12, 1986 (HCAR No. 24128).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2735]

Hawaii; Declaration of Disaster Loan Area

The County and Island of Hawaii constitute a disaster area as a result of damages caused by heavy rains and flooding which occurred on August 12, 1994 in the districts of Hilo, Hamakua, Puna, and Ka'u. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 31, 1994 and for economic injury until the close of business on June 1, 1995 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 273506 and for economic injury the number is 832100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 1, 1994.

Erskine B. Bowles,

Administrator.

[FR Doc. 94–22422 Filed 9–9–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice No. 2072]

Shipping Coordinating Committee, International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m., on Thursday, September 22, 1994, in Room 6103 of U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. The purpose of this meeting is to prepare for the 71st Session of the International Maritime Organization (IMO) Legal Committee to be held October 10–14, 1994.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first subject addressed will be the draft International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention). The second major subject, which will be considered at approximately 11:30 a.m., will be possible revisions to the 1976 Convention on Limitation of Liability for Maritime Claims ('76 LLMC).

The current draft of the HNS Convention imposes strict liability upon the shipowner with an additional international fund (second-tier fund) modeled after the International Oil Pollution Compensation Fund. The draft HNS Convention provides compensation for environmental damage as well as personal injury and property damage from a broad range of substances. At the 70th Session, the Legal Committee finalized decisions on several issues regarding the draft HNS Convention and agreed in principle on several others. However, other important questions remain to be resolved, such as: (1) Whether receivers or importers should pay into the second-tier instead of shippers and exporters; (2) whether transshipment receivers will be required to pay into the second-tier; and (3) whether domestic voyages of seagoing vessels will be covered by the draft HNS Convention and similarly be required to contribute to the second-tier.

The Legal Committee resumed deliberations on the '76 LLMC at the 70th Session. Several decisions were made, and discussion centered on a draft protocol which provides for raising the limits of liability and a streamlined tacit amendment procedure. Work will continue at the 71st session in October. The '76 LLMC has been in force since December 1, 1986, and has been ratified by 22 nations. Although the United States has not ratified the '76 LLMC, interests within the United States—such as owners of foreign flag vessels and passengers on foreign flag vessels—may be affected by changes to the Convention. The views of the public are requested.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Steven D. Poulin, U.S. Coast Guard (G–LMI), 2100 Second Street, S.W., Washington, D.C. 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: September 1, 1994.

Stephen Miller,

Acting Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 94–22395 Filed 9–9–94; 8:45 am]

BILLING CODE 4710–7–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended September 2, 1994

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49747
Date filed: August 30, 1994
Parties: Members of the International Air Transport Association
Subject: TC Reso/P 0434 dated August 26, 1994, Caribbean Expedited Resos, r–1—070ff r–2—073j
Proposed Effective Date: Expedited November 1, 1994.

Docket Number: 49748
Date filed: August 30, 1994
Parties: Members of the International Air Transport Association
Subject: TC31 Telex Mail Vote 704 Japan-TC1 fares (3-day advance ticketing rule), r–1—085tt r–2—086ii
Proposed Effective Date: October 1, 1994.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 94–22428 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–62–P

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 2, 1994

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49749
Date filed: August 31, 1994
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 28, 1994
Description: Joint Application of Air Transport International Limited Liability Company and International Charter Xpress Limited Liability Company pursuant to 49 U.S.C. Section 41105, request approval of the transfer of ATI's certificates of public convenience and necessity to ICX. The transfer of certificates from ATI to ICX is the second phase of a corporate restructuring intended to take advantage of tax and business-related benefits of consolidating the two commonly owned companies into one organization.

Docket Number: 49326
Date filed: August 29, 1994
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 26, 1994
Description: Amendment No. 1 of Volga-Dnepr J.S. Cargo Airline, pursuant to Section 402 of the Act and Subpart Q of the Regulations, requests an Amendment to its foreign air carrier permit to include Bangor, Maine as an additional point for scheduled service between the Russian Federation and the United States.

Docket Number: 48060
Date filed: September 1, 1994
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 29, 1994
Description: Amendment No. 1 to Application of Ghana Airways Corporation, pursuant to Section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit to operate scheduled combination service between Accra, Ghana and New York, New York on a twice a week basis, with an increase to three weekly frequencies on December 1.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 94–22427 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–62–P

Federal Transit Administration

Innovative Financing Initiative: Notice of Funding Availability and Request for Information

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: This notice solicits project proposals and information from transit authorities, planning officials, States, the private sector and the public for the Federal Transit Administration's (FTA) Innovative Financing initiative. Specifically, the agency seeks identification of issues and obstacles to innovative financing of transit capital or operating needs, as well as local project proposals that demonstrate or test an innovative financing mechanism.

DATES: Proposals shall be received on or before October 30, 1994.

ADDRESSES: Proposals should be sent in triplicate to Janette Sadik-Khan, Associate Administrator, Office of Budget and Policy, Room 9310, 400 Seventh Street SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Paul Marx (202) 366–1675 or Janette Sadik-Khan (202) 366–4050.

SUPPLEMENTARY INFORMATION:

Background

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) provides various tools for more efficient management and enhancement of our Nation's public transit infrastructure. Moreover, the President's guidance on infrastructure investment urges all levels of government to foster economic growth by supporting integrated investment in infrastructure; Executive Order 12893, "Principles for Federal Infrastructure Investments," signed by the President on January 26, 1994, directs each executive department "to ensure efficient management of infrastructure * * *" and "to encourage private sector investment, which is a key objective of our efforts to promote innovative financing." By encouraging private sector investment in transit infrastructure, FTA hopes to bring market-oriented and results-driven project analysis and management techniques to bear on meeting the nation's current and projected transit infrastructure needs.

Our challenge therefore is to facilitate a program of public and private transit infrastructure investment that both preserves the existing base of transit assets and ensures that investment for transit system expansion can be made as needed. Such a program of infrastructure preservation and enhancement must take maximum advantage of existing capital markets and techniques for leveraging the effectiveness of infrastructure investment by all levels of government. It must increase private capital participation while maintaining or expanding public sector investment. Department of Transportation Secretary Federico Peña, responding to this challenge, requested that FTA explore innovative ways to finance the transportation needs of our nation, taking into account a continuing Federal commitment to transit support as well as a growing private sector interest in transportation investment.

FTA has identified specific provisions that were added to the Federal transit laws by ISTEA that make it easier for States and localities to plan and execute integrated public transit investment programs, but more is needed.

Issues and Proposals

In preparation for the FY 1996 budget process, FTA is asking for (1) identification of joint public and private ventures in public transportation that demonstrate the effectiveness of private capital investment in transit, (2) identification of projects to remove or modify rules and policies that inhibit effective transit infrastructure management, and (3) specific local transit project proposals that would test or implement innovative financing techniques. We believe the most effective way to do this is to rely upon those who have led their industry in developing such techniques and projects for applicable examples. FTA will use the innovations proposed to support discussions for the next surface transportation authorization, summarize and disseminate the results of projects for peer review and, to the extent possible, provide technical assistance in project advancement.

Innovative Concepts

The types of projects that FTA seeks should use innovative financing concepts that enhance the effectiveness of public transit investment by either generating increased investment or by reducing overall project costs. The following techniques and ISTEA provisions are illustrative of the types of innovation that we are seeking:

- Structured leasing of fixed transit facilities, through the use of Certificates of Participation (COP's), Grant Anticipation Notes, or other mechanisms that generate cost reductions or net present value benefits;
- New combinations of funding in support of transit infrastructure, such as in-kind local contributions, sale of development rights, realizing or enhancing land-use impact benefits, or private funding of transit facilities;
- Using 49 U.S.C. 5312(a), added by ISTEA to transfer existing, federally supported assets to more effective use;
- Initiating innovative procurements such as multi-year rolling stock procurements, forming consortia to facilitate efficiencies of scale in rolling stock procurements, or using design-build (Turnkey) as a method of infrastructure project delivery; and
- Using various securities to attract private capital investment to transit, refinance existing debt, or otherwise ensure long-term, stable sources of funding for infrastructure investment.
- Establishing or using existing authority to provide direct loans for transit and other infrastructure projects, possibly through a revolving loan fund mechanism.

The preceding are examples only. We welcome all ideas and projects that have the potential to leverage existing or planned infrastructure investment, or that will help to reduce public transportation costs over time.

FTA will make full use of its regulatory and statutory flexibility in fostering innovative financing proposals

for transit. However, the projects proposed under this initiative must comply with all other statutory and regulatory requirements such as the National Environmental Policy Act, Civil Rights, Americans with Disabilities Act, and the Clean Air Act.

Project Proposals

The proposals for candidate projects should describe:

- The project specifics—i.e., what is being bought, constructed, financed;
- Project funding—federal aid, by type, as well as other funding sources. This should include funding realized through capturing external economic benefits resulting from project financing, as appropriate;
- Construction Financing—What mechanisms are being used to finance the construction portion of the project;
- Intermodal Impacts/Benefits—The degree to which the transit investment benefits other modes (airports, intercity rail, etc.) or is enhanced by other modes;
- The status of major Federal and State clearances;
- The financing innovation, and how its use in this context could benefit and apply to other projects in the region or the Nation;
- The incentive required—i.e., fast-tracking, re-programming, additional funding, administrative or regulatory flexibility or relief, etc.;
- How the proposed innovation will leverage Federal, State, local and private investment for public transit; and
- A timeline for advancing the project, including milestones.

Proposals must be for projects eligible under the FT Act. New construction and reconstruction projects are appropriate, as are rolling stock projects. Those proposals which meet major Federal clearance requirements will receive preference in the review process. Upon acceptance of a grantee's proposal, the project will be advanced in an expedited manner.

Limited capital funds are available. Therefore, projects proposed will be judged on the basis of broad applicability of the innovation, current project status (in planning, final engineering, environmental clearance, commencement of construction), the likelihood of near-term (1–2 years) project completion, and level of Federal funding required. We do not expect to fund all projects received. Projects and initiatives requiring administrative or regulatory flexibility will not be limited as to number, but will be judged on the basis of the innovation, their potential for application to other transit systems or other modes, and the likelihood of near-term results from the administrative or regulatory change.

Issued on: September 7, 1994.

Gordon J. Linton,

Administrator.

[FR Doc. 94–22426 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–57–P

Federal Highway Administration

Environmental Impact Statement: Anchorage, AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway construction project in Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Phillip Smith, Field Operations Engineer, Federal Highway Administration, Box 21648, Juneau, Alaska 99802–1648. Telephone (907) 586–7428.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities (ADOT&PF), will prepare an EIS on a proposal to upgrade and extend Dowling Road, an east-west arterial, from the Raspberry interchange at Minnesota Drive eastward to Lake Otis Parkway. The proposed project would be approximately three miles long.

The proposed improvements would include: a four to six lane roadway for the entire length of the project; a crossing of the Alaska Railroad tracks; replacement of a bridge crossing Campbell Creek; modification or replacement of an interchange bridge at the New Seward Highway; facilities for pedestrians, bicyclists, the disabled, and transit users; signalization and illumination; and a drainage system. The proposed project would be constructed in stages.

The proposed action is necessary to meet the community's current and future transportation needs. Dowling Road, between the Old Seward Highway and Lake Otis Parkway, is currently over capacity, especially during peak hours. Traffic congestion significantly delays drivers and contributes to deterioration of Anchorage's air quality. Pedestrians are poorly accommodated due to the lack of roadway shoulders and pedestrian facilities. The road improvement would alleviate traffic congestion on other east-west arterials such as Tudor Road, International Airport Road, and Dimond Boulevard. The proposed action is an integral part of the Anchorage Metropolitan Area Transportation Study Long Range Transportation Plan and the Municipality of Anchorage Official Streets and Highway Plan.

Alternatives which would be considered include:

(1) No action;

(2) Upgrading and extending Dowling Road to connect to the Raspberry interchange at Minnesota Drive via a Rovenna Street alignment;

(3) Upgrading and extending Dowling Road to connect to the Raspberry interchange at Minnesota Drive via a 'C' Street/Raspberry Road alignment;

(4) Traffic system management strategies that include alternatives such as improved signal timing, upgrading mass transit, and travel demand reduction strategies.

The FHWA and ADOT&PF have contracted with a private consultant to prepare the EIS, develop various design alternatives, and conduct the preliminary engineering studies. The consultant will be responsible for all scoping activities including the notification of appropriate Federal, State, and local agencies, private organizations, and citizens who might be potentially interested in this proposal. A series of meetings and other activities to discuss the project and solicit input from agencies and the public will be conducted in the fall of 1994 and continue into 1995. FHWA and ADOT&PF will make requests for formal cooperating agency status prior to other scoping activities. In addition, public hearings will be held after completion of the draft EIS. Public notice will be given of the time and places of the hearings at a later date. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. 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 Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 1, 1994.

Robert E. Ruby,

Division Administrator, Juneau, Alaska.

[FR Doc. 94–22391 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement to Foster the Development, Evaluation, and Deployment of a Heavy Vehicle Intelligent Commercial Vehicle Communication and Powering Enhancement System(s)

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

ACTION: Notice.

SUMMARY: NHTSA announces this discretionary cooperative agreement program to foster the development, evaluation, and deployment of a heavy vehicle intelligent communication and powering enhancement system(s) and solicits applications for projects under this program.

DATES: Applications must be received on or before October 5, 1994.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Henrietta Mosley, 400 Seventh Street, SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–95–R–07001. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: Henrietta Mosley, Office of Contracts and Procurement, at (202) 366–9570, for general administrative questions; and C.J. Britell, Office of Crash Avoidance Research (NRD–53), (202) 366–5678 for programmatic questions; at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 6220, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

NHTSA has the responsibility to devise strategies to reduce the number of motor vehicle collisions and to save lives and reduce injuries and property damage through the prevention and reduction in severity of motor vehicle collisions. NHTSA's Office of Crash Avoidance Research conducts and manages research intended to: analyze driver-vehicle interaction, identify specific vehicle designs, components, or parameters associated with driver performance errors and resulting collisions, and develop and evaluate vehicle-based collision avoidance countermeasure concepts and devices.

There are approximately 1.6 million truck tractors and 3.6 million trailers in use in the motor carrier industry today. IVHS technology offers a significant potential to improve the productivity of the industry and help reduce the approximately 200,000 crashes in which these vehicles are involved each year. To date, the application of these technologies to commercial vehicles has been limited to single unit trucks and truck tractors because of constraints inherent in the present combination-unit truck trailer electrical powering and signalling communication system.

Traditionally, the U.S. trucking industry equipment needs have been supplied by the truck/tractor manufacturer (supplying the towing unit) and the trailer manufacturer (supplying the cargo space to move goods). The two units are married at the fifth wheel of the power unit and the king-pin of the trailer. Communication and powering between the tractor and trailer consists of little more than supplying power and control from the tractor to the running lights of the trailer through the standard seven pin electrical connector (seven circuits). One of the primary reasons for lack of technology change in the standard seven circuit connection between the tractor and trailer is that any change may result in lack of compatibility between tractors and trailers operating in the U.S. However, the defense, aerospace, and computer industries have begun to focus on commercial vehicle applications as a potential new market for their innovative ideas and advanced technologies to improve safety, efficiency and productivity. In order for these advances to happen, they must comply with the needs and objectives of the users.

Vehicle/unit locators, vehicle/driver trip loggers, on-board weight measurement and recording systems, vehicle maintenance status monitor/recorder/transmitters, administrative credentials transponders, etc., are envisioned, and in some cases, beginning to be installed on trucks and tractors, resulting in significant operational efficiency benefits. Likewise, sideward-looking, reward-looking, and forward-looking collision avoidance systems, driver performance monitors, antilock and electronic braking systems, brake maintenance status monitors, etc., are envisioned, and in some cases, beginning to be installed on trucks and tractors to enhance their operational safety performance.

To date, the application of these developing technologies to commercial vehicles has been limited predominately to the power unit. There is clearly a need to overcome the inherent constraints presently found in the communicating and powering system between tractors and trailers. These constraints are exacerbated in the case of multi-unit combination tractor/trailers, the vehicle type which will likely have an increased future role in improving the productivity of the motor carrier industry. The ability to install advanced technology IVHS productivity and safety enhancing equipment on this type of vehicle may be a key element in making their expanded future use practical and acceptable.

A number of possibilities have been suggested to address this issue, including but not limited to: radio/telemetry communication linkages among units in the combination, communications signal multiplexing, voltage enhancements, wiring system upgrades, additional electrical circuits and/or wiring connector systems, etc. The successful introduction of any or all of these approaches will hinge on whether they can be integrated, and be compatible with existing equipment in the current commercial motor carrier fleet. A comparative evaluation of these approaches, and fleet demonstrations of the most promising among these, will help foster the implementation of IVHS technology in this application.

Objective

To assess the functional capabilities and limitations, as well as the reliability and practicality, of alternative means of providing power to and sending/receiving communication signals to/from multiple numbers and different types of advanced technology safety and productivity enhancing systems on multi-unit combination heavy commercial tractor/trailers. Assessments will be made with a view to fostering the ability of system suppliers and truck users to commercially deploy these type systems.

Research Approach

NHTSA believes that a teaming approach may be necessary to conduct this research. One or more cooperative agreements are envisioned in which a consortium of organizations with experience in truck/tractor manufacturing, trailer manufacturing, electronic system and component development, wiring and connectors, vehicle test and evaluation, and motor carrier operation (in the case of an in-

service demonstration project) appear ideally suited to pursue this program.

Because of the potential for cost sharing, the performing organization may retain the rights to any proprietary product or technology developed under the agreement, subject to a government use license. The organization would be free to pursue commercial development and marketing for the products. NHTSA will require deliverables, however, which could include reports suitable for publishing in the public domain to document such items as the research methods and system evaluation results. Certain proprietary information, such as algorithms, need not be released in the public domain.

It is anticipated that one or more cooperative agreements may be awarded under this program. Projects will be funded incrementally, with up to a three-year support period. The maximum funding level that is anticipated for the total project is $575,000, excluding cost sharing provided by the performing organization(s). The maximum incremental funding available in any one year is anticipated to be $300,000.

NHTSA Involvement

The NHTSA, Office of Crash Avoidance Research, will be involved in all activities undertaken as part of this cooperative agreement program and will:

1. Provide, on an as-available basis, one professional staff person, to be designated as the Contracting Officer's Technical Representative (COTR), to participate in the planning and management of the cooperative agreement, and to coordinate activities between the organization and NHTSA;

2. Make available information and technical assistance from government sources, within available resources and as determined appropriate by the COTR. This shall include data from state and national accident databases, human factors data, or any other resources within the government that may be of use in supporting research efforts;

3. Provide liaison with other government agencies and organizations as appropriate; and

4. Help expand the knowledge base of collision avoidance systems and enabling technologies by publishing nonproprietary information developed at Government expense in the scientific literature, thus making it available to all organizations involved in research and product development in this area.

Period of Support

The research and development effort described in this notice may be supported through the award of a cooperative agreement. NHTSA reserves the right to make multiple cooperative agreement awards for the effort described in this notice depending on the merits of the applications received and the amount of Federal funding available.

Contingent on the availability of funds and satisfactory performance, cooperative agreement(s) will be awarded to eligible organization(s) for project periods of up to 3 years.

Eligibility Requirements

To be eligible to participate in this cooperative agreement program, an applicant must be a for-profit business organization (small or large), a non-profit organization, or an educational institution. Regardless of the type of organization applying for Federal funding assistance, no fee or profit will be allowed. While the proposed research effort may require extensive collaboration among several organizations, it is envisioned that during the pre-application process, these various organizations will designate one organization to prepare and submit the formal application.

Application Procedure

Each applicant must submit one original and two copies of its application package to: National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Henrietta Mosley, 400 Seventh Street, SW., Room 5301, Washington, DC 20590. Only complete application packages received on or before October 5, 1994 shall be considered. Submission of three additional copies will expedite processing, but is not required. The applicant shall specifically identify any information in the application for which confidentiality is requested, in accordance with the procedures of 49 CFR Part 512, Confidential Business Information.

Application Contents

1. The application package must be submitted with OMB Standard Form 424 (Rev. 4–88, including 424A and 424B), with the required information filled in and the certified assurances included. While the Form 424–A deals with budget information, and Section B identifies budget categories, the available space does not permit a level of detail which is sufficient for a meaningful evaluation of proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs, as well as the costs which the applicant proposes to contribute in support of this effort, or any additional financial commitment made by other sources. The budget detail shall include all cost components of the project. Labor categories, hourly labor rates, and projected labor hours for each category should be included, as well as all materials, computer time, test facility fees, etc. For planning purposes, the required briefings, during the agreement performance period, will be conducted at NHTSA in Washington, D.C.

2. Applicants shall include a program narrative statement which includes the following:

a. A statement of work describing the development of the prototype heavy vehicle communication and powering enhancement system(s). All phases of the system(s) development should be described in sufficient detail to demonstrate technical and administrative proficiency in each area of the project (e.g., vehicle communication and powering enhancement devices, assessing system performance, obtaining test vehicles, assembling the system hardware, etc.). Specific details on product development should be included; for example, a system requiring sensors should include information on whether those sensors are off-the-shelf or are to be developed as part of the research effort.

b. The proposed program director and other key personnel identified for participation in the proposed research effort, including a description of the project team and individual qualifications and their respective organizational responsibilities.

c. A description of the test facilities and equipment currently available or to be obtained for use in conducting the proposed research effort.

d. A description of the applicant's previous experience or on-going research programs that are related to this proposed research effort.

e. A detailed schedule, and management plan for the proposed research effort, to include:

1. A detailed task schedule, Gantt, or PERT chart to show the duration, relationship and sequencing of proposed tasks, sub tasks, project milestones, and project deliverables.

2. A management plan that reflects the capability to direct and coordinate the project tasks and administrative activities among the team member organizations.

f. A description of deliverables that will be provided to NHTSA during the project and upon completion of the research effort. This could include written reports, video tapes of computer simulations and/or full-scale vehicle

tests, test data, etc. Each deliverable should be identified as to whether it will be proprietary information or suitable for release in the public domain.

g. A detailed statement of any technical assistance which the applicant may require of NHTSA in order to successfully complete the proposed research effort.

Application Review Process and Criteria

Initially, all applications will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all the information required by the Application Contents section of this notice.

Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria:

1. The technical merit of the proposal, including the applicant's understanding of the purpose and unique problems represented by the research objectives of this cooperative agreement program as evidenced in the description of their proposed project. The impact the proposed research effort will have on fostering development of commercially viable communication and powering enhancement systems for heavy vehicles will be evaluated. The technical merit of the proposed research effort, including the feasibility of approach, practicality, planned methodology, and anticipated results, will have the most weight of all evaluation factors. The proposal will be evaluated for demonstrated proficiency in each technical subject included in the proposal.

2. The adequacy and availability of relevant test facilities and equipment identified to accomplish the proposed research effort.

3. The applicant's previous and current organizational experience and personnel qualifications as related to this effort.

4. The completeness and clarity of the applicant's plan for accomplishing the proposed research will be evaluated. This includes the task schedule and proposed management plan needed to direct and coordinate identified project tasks.

Terms and Conditions of the Award

1. Procedures for the protection of the rights and welfare of human subjects in NHTSA-sponsored experiments are set forth in NHTSA Orders 700–1 and 700–3. Any recipient proposing the use of human subjects must satisfy the requirements and guidelines of the NHTSA Orders 700 series prior to award of the cooperative agreement. It is not anticipated that non-human subjects will be used in any testing performed under this cooperative agreement. A copy of the NHTSA Orders 700 series may be obtained from the administrative information contact designated in this notice.

2. Prior to award, the recipient must comply with the certification requirements of 49 CFR Part 20—Department of Transportation New Restrictions on Lobbying and 49 CFR Part 29—Department of Transportation Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

3. Each cooperative agreement will be negotiated to include provisions appropriate to organizational conflicts of interest, patent rights, rights in data, and copyright retention by the applicant. At the time of negotiation, applicants may be required to disclose all actual or apparent conflicts of interest.

4. During the effective period of the cooperative agreement(s) awarded as a result of this notice, the agreement(s) shall be subject to NHTSA's General Provisions for Assistance Agreements, the cost principles of OMB Circular A–21, A–122, or FAR 31.2, as applicable to the recipient, and the requirements of 49 CFR Part 20 and Part 29. The agreement(s) shall also be subject to the general administrative requirements of 49 CFR Part 19–Department of Transportation Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations as applicable to those organizations.

5. Reporting Requirements:

a. *Research Progress Reports:* The recipient shall provide bimonthly research progress reports which shall be due 15 days after the reporting period, and a final research report within 45 days after the completion of the research effort. An original and two copies of each of these research reports shall be submitted to the COTR.

b. *Oral Briefings:* There shall be a start-up briefing held at the NHTSA Office of Crash Avoidance Research, Washington, DC within 15 days of initiation of the cooperative agreement. The recipient shall conduct semiannual oral presentations of research results for the COTR and other interested NHTSA personnel. An original and at least two copies of briefing materials shall be submitted to the COTR at the time of each briefing.

Issued on: August 19, 1994.

George L. Parker,

Associate Administrator for Research and Development.

[FR Doc. 94–22389 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1994.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0089
Form Number: IRS Form 1040NR
Type of Review: Revision
Title: U.S. Nonresident Alien Income Tax Return
Description: This form is used by nonresident alien individuals and foreign estates and trusts to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc., are correctly figured. Affected public are nonresident alien individuals, estates, and trusts.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 271,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—6 hr., 40 min.
Learning about the law or the form—1 hr., 50 min.
Preparing the form—4 hr., 22 min.
Copying, assembling, and sending the form to the IRS—1 hr., 47 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 3,585,753 hours

OMB Number: 1545–0950
Form Number: IRS Form 23
Type of Review: Revision

Title: Application for Enrollment to Practice Before the Internal Revenue Service

Description: This information relates to the approval of enrollment for individuals who apply for enrollment after having successfully passed the Special Enrollment Examination, retiring from IRS employment or applying for reinstatement due to 06/20/94 regulation changes.

Respondents: Individuals or household, Federal agencies or employees

Estimated Number of Respondents: 2,400

Estimated Burden Hours Per Respondent: 1 hour

Frequency of Response: Other (one-time filing)

Estimated Total Reporting Burden: 2,400 hours

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–22403 Filed 9–9–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in a timely manner, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approve this information collection by September 15, 1994. All public comments must be received by close of business September 13, 1994.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Survey Project Number: IRS PC:V 94–006.

Type of Review: Revision.

Title: 1994 IRS Small Business Customer Satisfaction Survey

Description: The purpose of this survey is to collect information from small businesses (owners, partners, and corporate officers) in order to determine their opinions about the quality of service provided by the IRS; understand the relative importance they place on the various aspects of quality service, and establish a baseline by which to measure changes in their satisfaction with IRS performance. This study is necessary to satisfy the requirements of Executive Order 12862, which requires federal agencies to survey their customers about their satisfaction with existing services and to identify services that these customers desire. It will provide crucial information needed by IRS to develop and implement effective customer satisfaction measures that meet the Agency's mandate to improve quality service.

Respondents: Small businesses or organizations

Estimated Number of Respondents: 2,100

Estimated Burden Hours Per Respondent:

	Pilot	Full interview	Total
Respondents.	100	2,000	2,100
Time/interview.	15min ...	15 min ..	15 min

Frequency of Response: Other

Estimated Total Reporting Burden: 525 hours

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–22404 Filed 9–9–94; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1994.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, N.W., Washington, D.C. 20220.

Office of Thrift Supervision (OTS)

OMB Number: 1550–0019

Form Number: None

Type of Review: Extension

Title: Annual Reporting Requirements and Disclosures required by Securities Exchange Act of 1934. (Previous Title: Securities Exchange Act Disclosure)

Description: Provides operational data to stockholders and investors permitting an informed decision concerning possible purchase or sale of security savings and loan associations.

Respondents: Businesses or other for-profit

Estimated Number of Respondents/Recordkeepers: 250 & 150, respectively

Estimated Burden Hours Per Respondent/Recordkeeper: 300 & 2,500, respectively

Frequency of Response: Quarterly, Annually, Other (triggered by events)

Estimated Total Reporting/Recordkeeping Burden: 454,818 hours

Clearance Officer: Colleen Devine (202) 906–6025, Office of Thrift Supervision, 2nd Floor, 1700 G. Street, N.W., Washington, DC 20552

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer

[FR Doc. 94–22402 Filed 9–9–94; 8:45 am]

BILLING CODE 4810–25–P

Sunshine Act Meetings

Federal Register

Vol. 59, No. 175

Monday, September 12, 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).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:00 a.m., Tuesday, September 13, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Riding Mowers

The staff will brief the Commission on options for Commission action to address hazards associated with the use of riding mowers.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 7, 1994.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 94–22643 Filed 9–8–94; 2:52 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, September 14, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Lidocaine and Dibucaine

The staff will brief the Commission on a child-resistant packaging requirement under the Poison Prevention Packaging Act for the topical anesthetics lidocaine and dibucaine.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 7, 1994.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 94–22644 Filed 9–8–94; 2:52 pm]

BILLING CODE 6355–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: September 14, 1994, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 615th Meeting—September 14, 1994, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 1394–009, Southern California Edison Company
CAH–2.
Project No. 1494–077, Grand River Dam Authority
CAH–3.
Project No. 2599–008, Consumers Power Company
CAH–4.
Project No. 11090–001, Tunbridge Mill Corporation
CAH–5.
Project No. 11315–004, BMB Enterprises, Inc.
CAH–6.
Project No. 11484–001, Carl E. Hitchcock
CAH–7.
Project No. 5295–006, City and County of San Francisco
CAH–8.
Project No. 9690–026, Orange and Rockland Utilities, Inc.
CAH–9.
Project No. 11370–001, BAE Energy, Inc.
CAH–10.
Project No. 2100–054, California Department of Water Resources
CAH–11.
Project No. 7888–006, COMTU Falls Corporation
CAH–12.
Project Nos. 7895–007, 8435–018, 8466–020 and 8812–020, Independence Electric Corporation

Consent Agenda—Electric

CAE–1.
Docket No. ER94–1240–000, Maine Public Service Company
CAE–2.
Docket No. ER94–1397–000, Boston Edison Company
CAE–3.
Docket Nos. ER93–889–000 and 001, Citizens Utilities Company
CAE–4.
Docket No. ER94–8–000, PECO Energy Company
CAE–5.
Omitted
CAE–6.
Omitted
CAE–7.
Docket Nos. EL91–32–003 and EL91–34–003, Power Authority of the State of New York and Municipal Electric Utilities Association of New York State v. Long Island Lighting Company
CAE–8.
Docket No. ER94–1217–001, Consolidated Edison Company of New York, Inc.
CAE–9.
Docket No. ER94–773–002, Long Island Lighting Company
CAE–10.
Docket Nos. ER93–2011–002, ER93–2021–002, EF93–2041–002, EF94–2081–002 and EF94–2091–002, United States Department of Energy—Bonneville Power Administration
CAE–11.
Docket No. EL95–57–001, Louisiana Public Service Commission, Attorney General of the State of Mississippi and Mississippi Public Service Commission v. Entergy Services, Inc.
CAE–12.
Docket No. ER93–266–001, Boston Edison Company
CAE–13.
Docket No. ER92–592–003, Yankee Atomic Electric Company
CAE–14.
Docket No. EG94–87–000, Hermiston Power Partnership
CAE–15.
Docket No. EG94–88–000, Power Barge Antilles, L.P.
CAE–16.
Docket No. EG94–86–000, CMS Operating S.A.
CAE–17.
Docket No. EG94–85–000, Private Power Operators Limited
CAE–18.

Docket No. EG94–84–000, TIFD VIII-H Inc.
CAE–19.
Docket No. EL94–17–000, Florida Power Corporation
CAE–20.
Docket No. EL94–34–000, Western Resources, Inc.
CAE–21.
Docket Nos. ES94–29–000, 001, 002, 003, ES94–32–000, 001 and 002, Robbins Resource Recovery Partners, L.P.
CAE–22.
Docket Nos. EL94–29–000 and QF87–433–002, Chambers Cogeneration Limited Partnership
CAE–23.
Docket Nos. EL92–1–000 and ER92–342–000, Carolina Power & Light Company

Consent Agenda—Oil and Gas

CAG–1.
Docket No. PR94–14–000, Transok Gas Transmission Company
CAG–2.
Docket No. PR94–15–000, Aquila Gas Systems Corporation
CAG–3.
Docket No. PR94–17–000, Mississippi Valley Gas Company
CAG–4.
Omitted
CAG–5.
Docket No. RP94–342–000, Colorado Interstate Gas Company
CAG–6.
Docket No. RP94–363–000, Koch Gateway Pipeline Company
CAG–7.
Docket No. RP94–364–000, Natural Gas Pipeline Company of America
CAG–8.
Docket Nos. RP94–365–000 and 001, Williams Natural Gas Company
CAG–9.
Docket Nos. RP85–177–120 and RP85–177–122, Texas Eastern Transmission Corporation
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RS–1.
Reserved

III. Pipeline Certificate Matters

PC–1.
Reserved

Dated: September 7, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22547 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–P

MARINE MAMMAL COMMISSION

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Wednesday, November 16, 1994 from 9:00 a.m. to 9:45 a.m. The public sessions of the Commission and the Committee meeting will be held on Wednesday, November 16, from 10:00 a.m. to 6:30 p.m., on Thursday, November 17, from 9:00 a.m. to 5:40 p.m., and on Friday, November 18, from 9:00 a.m. to noon.

PLACE: The Coonamessett Inn, Jones Road and Gifford Street, Falmouth, Massachusetts 02541.

STATUS: The executive session will be closed to the public. At it, matters relating to personnel, the internal practices of the Commission, and international negotiations in process will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed if time permits and it is determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. While subject to change, major issues that the Commission plans to consider at the meeting include: implementation of the 1994 amendments to the Marine Mammal Protection Act; the status and incidental take of harbor porpoise; right and humpback whales in the North Atlantic; reintroduction of captive marine mammals to the wild; the status of marine mammals in Alaska; the proposed Acoustic Thermography of Ocean Climate (ATOC) experiment; and the gray whale, Hawaiian monk seal, and West Indian manatee.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 1825 Connecticut Avenue, N.W., Room 512, Washington, D.C. 20009, 202/602–5504.

Dated: September 8, 1994.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 94–22569 Filed 9–8–94; 10:39 am]

BILLING CODE 6820–31–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 4:00 p.m., Friday, September 16, 1994.

PLACE: Yarrow Hotel, 1800 Park Avenue, Park City, Utah 84060, (801) 649–7000.

STATUS: Open.

BOARD BRIEFINGS:

1. Insurance Fund Report.
2. Legislative Update.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Community Charter Expansion Request from Lima Superior Community Federal Credit Union, Lima, Ohio.
3. Appeal of Denial of Field of Membership Expansion Request by IUISTHE Federal Credit Union.
4. Proposed Rule: Amendment to Part 704, NCUA's Rules and Regulations, Corporate Credit Union Representation.
5. Interim Final Rule: Part 708a, NCUA's Rules and Regulations, Mergers of Federally Insured Credit Unions: Voluntary Termination or Conversion of Insured Status.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 94–22654 Filed 9–8–94; 2:59 pm]

BILLING CODE 7535–01–M

UNITED STATES INSTITUTE OF PEACE

DATE/TIME: Thursday, September 22, 1994, 9:15 a.m.–5:30 p.m.

LOCATION: First Floor Conference Room, 1550 M Street, NW, Washington, DC 20005.

STATUS: (Open Session)—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: Approval of Minutes of the Sixty-sixth Meeting of the Board of Directors; Chairman's Report; President's Report; General Issues; Discussion of Budget for FY '95–'96 with the Board.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs and Information, Telephone: (202) 457–1700.

Dated: September 8, 1994.

Charles E. Nelson,

Vice President, United States Institute of Peace.

[FR Doc. 94–22564 Filed 9–8–94; 10:24 am]

BILLING CODE 3155–01–M

federal register

Monday
September 12, 1994

Part II

The President

**Presidential Determination No. 94-45—
Waiver of Fiscal Year 1994 Ceiling on
Housing Guaranty Loans for South Africa
Private Sector Housing Guaranty Program**

Federal Register
Vol. 59, No. 175
Monday, September 12, 1994

Presidential Documents

Title 3—

The President

Presidential Determination No. 94–45 of August 31, 1994

Waiver of Fiscal Year 1994 Ceiling on Housing Guaranty Loans for South Africa Private Sector Housing Guaranty Program

Memorandum for the Administrator of the Agency for International Development

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, I hereby determine that it is important to the security interests of the United States to furnish assistance to South Africa, in the form of Housing Guaranty loans of up to $75 million, without regard to any limitations contained in the Fiscal Year 1994 Foreign Operations, Export Financing, and Related Programs Appropriations Act.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, August 31, 1994.

[FR Doc. 94–22666
Filed 9–8–94; 5:08 pm]
Billing code 6116–01–M

federal register

Monday
September 12, 1994

Part III

Department of Transportation

Federal Highway Administration

49 CFR Chapter III

Zero Base Review of the Federal Motor Carrier Safety Regulations; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Chapter III

[FHWA Docket MC–92–33]

Zero Base Review of the Federal Motor Carrier Safety Regulations (FMCSRs); Critical Regulatory Issues Being Researched

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of critical regulatory issues; reopening of public docket; request for information.

SUMMARY: The FHWA is providing a listing of critical regulatory issues to be researched under the second phase of its zero base regulatory review. These regulatory issues, framed as questions, resulted from a series of public hearings held throughout the country during late 1992 and early 1993. The hearings were held to obtain information, views, opinions, and recommendations on the Federal Motor Carrier Safety Regulations (FMCSRs) from representatives of the motor carrier industry, the insurance industry, enforcement personnel, universities, and other interested parties. The FHWA will be conducting a comprehensive literature search to identify completed or existing research studies that will provide insight on these critical issues. The FHWA is seeking information from individuals and organizations who may have conducted research that addresses the issues provided in this notice, who know about research that has been conducted, or who can identify others who have completed or are in the process of completing research.

DATES: Information on the identification of relevant research studies will be collected until further notification in the **Federal Register.**

ADDRESSES: Please submit the name of the research organization(s), the title and date of the relevant study or studies, the name of the principal researcher(s), etc., to FHWA Docket MC–92–33, Room 4232, HCC–10, Office of the Chief Counsel, FHWA, 400 Seventh Street, SW., Washington, DC 20590. All information received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of information must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Osiecki, Office of Motor Carrier Standards, (202) 366–4340, or Mr. Charles E. Medalen, Office of Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The concept of the zero base review is to take a completely fresh look at the safety regulations governing the interstate motor carrier industry. The objective of this project is to improve the regulations so they: (1) Have a more dramatic positive effect on safety and the reduction of accidents, (2) are more easily understood by the industry, (3) have a greater performance orientation, and (4) are easier to interpret and enforce.

The first phase of this project was initiated in 1992 when FHWA opened a public docket and notified all interested parties through the **Federal Register** on August 18, 1992 (57 FR 37392) that it would be holding a series of public hearings to obtain comments and recommendations for improvement of the FMCSRs. Pursuant to the August, 1992, notice, and two subsequent notices in the **Federal Register** (57 FR 53089 and 57 FR 60784), 11 public hearings and 14 focus-group sessions were held throughout the country. In addition, the public docket which opened on August 18, 1992, was subsequently closed effective April 1, 1993, pursuant to 57 FR 60784. This initial phase of the zero base project was completed in September 1993, with the development of a final report, completed in three volumes, summarizing the recommendations received at the public hearings, the focus-group sessions, and through letters to the public docket. Many of the critical issues provided later in this notice are a direct result of information and recommendations received during Phase I. The final report, Zerobase Review of the FMCSRs, for Phase I is available to the industry and the general public through the National Technical Information Service in Springfield, Virginia (1–800–553–6847 or local 703–487–4650), for a nominal fee. The access and report numbers are as follows for each volume: Volume I, Executive Summary PB94–100294, Report No. FHWA–MC–94–002; Volume II, Data Analysis PB94–100302, Report No. FHWA–MC–94–003; Volume III, Data Summary PB94–100310, Report No. FHWA–MC–94–004.

The second phase of this project is currently underway and involves a literature search for existing research studies that may shed light on the critical regulatory issues provided later in this notice. The FHWA will also develop a new format and structure for the rulebook of the future during this phase. The second phase is scheduled for completion in calendar year 1996.

The third phase of zero base, which will begin in calender year 1996, will involve the actual writing of the new regulations. As the new regulations for the rulebook of the future are finalized, the FHWA will initiate the fourth and final phase of the project, which will involve drafting and disseminating non-regulatory, user-friendly guides for specific industries or segments of the regulated population.

The FHWA is seeking information from the public on these critical regulatory issues to supplement its planned literature search effort to locate research data. Following are the critical regulatory issues on which the FHWA is seeking information:

Applicability, Administrative, and Other Requirements

1. Applicability

a. In the definition of a commercial motor vehicle (CMV) established by the Motor Carrier Safety Act of 1984, should FHWA ask Congress to substitute for the term "gross vehicle weight rating," which now defines the agency's jurisdiction, the term "gross vehicle weight rating or gross vehicle weight"? [see § 390.5]

b. At what GVW or gross vehicle weight rating (GVWR) should the commercial driver's license (CDL) regulations, alcohol and drug testing regulations, and the FMCSRs apply? [see §§ 382.103, 383.3, 383.5, 390.3 and 390.5]

2. Exemptions and Waivers

a. Should there be exemptions?

b. What are the minimum documented grounds to justify exemptions or waivers for unique operating circumstances (e.g., logging, farming, utilities, etc.) or localized circumstances (e.g., emergencies, etc.)? [see § 390.3]

3. Reading Level and English Requirement

a. At what comprehension level are the current FMCSRs written?

b. At what comprehension level should the new regulations be written for better customer understanding?

c. Is there justification to require drivers to be able to read and speak the English language? [see § 391.11(b)(2)]

4. Aid and Abet

a. Should FHWA ask Congress for jurisdiction over non-hazardous materials (HM) shippers?

b. Should FHWA ask Congress for jurisdiction over entities such as non-HM shippers, insurance companies, health care professionals, etc. who may aid and abet violations of the FMCSRs? [see § 390.13]

5. Financial Responsibility

a. Are the current levels of financial responsibility sufficient? [see §§ 387.9 and 387.33]

b. Should additional types of motor carriage (i.e., private motor carriers of passengers) be required to meet the minimum levels?

6. Part 397

Could part 397 be included in part 177? What would be the result of such a change?

7. Part 398

Could it be deleted? What arguments could be made to maintain the requirements? What would be the result of deleting the part? [see part 398]

8. Part 399

Could it be deleted? What arguments could be made to maintain the requirements? What would be the result of deleting the part? [see part 399]

Driver Requirements

1. Driver Fatigue

a. What are the effects of loading and unloading on driver fatigue?

b. What is the validity and predictive power of pre-drive fitness-for-duty devices?

c. What is the state-of-the-art and state-of-the-practice for fatigue testing/monitoring devices?

d. What should be the preferred method to track driver fatigue that may ease the paperwork burden on industry, but also facilitate enforcement? [see §§ 395.8 and 395.15]

2. Drug & Alcohol Testing

Should Medical Review Officers be certified? If so, Federal, State, or local certification process? What should be the minimum standards? [see §§ 391.85 and 391.87]

3. Medical Requirements

a. Should health care professionals performing medical exams be certified to do so? If so, Federal, State, or local certification process? [see § 391.43]

b. Could Medical Review Boards be established to resolve conflicts of medical evaluations? If so, at what level, Federal, State? [see § 391.47]

c. Is there a need for a minimum driving age for interstate drivers? By industry, i.e., farmers, off-road, seasonal, etc.?

d. In light of age discrimination laws, should there be, as a matter of public policy, a maximum age requirement for CMV drivers? [see § 391.11(b)]

e. Is it possible to establish objective minimum requirements which must be met for medical waivers (which can be used by non-medical personnel to make a determination)?

4. CDL

a. Should there be periodic skills and knowledge retesting of drivers for CDL purposes? [see § 383.71]

b. What are the merits of using simulation in CDL skills testing? [see § 383.133]

c. Could the CDL be merged with the medical certification process in part 391, including the issuance of medical waivers? If so, what needs to be done to do it?

d. How often should medical examinations be required? [Annually, every 2 years, etc.]

5. Training

a. What level of training is necessary for a driver to be a safe driver in three specific areas: geographic, weather, and cargo (including the transportation of hazardous materials)?

b. Is the CDL HM endorsement requirement necessary in light of the Research and Special Programs Administration's HM training requirement?

[see 49 CFR 172.700]

6. Documentation

What driver documentation should be maintained in the vehicle to provide adequate safety oversight by enforcement personnel?

Vehicle Requirements

1. Vehicle Performance

a. What defective mechanical items are most frequently cited during accidents? Do the cited violations have a direct correlation to accidents? What are the best means to identify them? [see appendix G to the FMCSRs]

b. Should the out-of-service criteria be placed in regulation?

2. Mechanic Training

a. Is training for CMV mechanics/inspectors currently adequate?

b. What level of training is appropriate? Is it appropriate to have required levels of mechanic training?

c. Should there be a requirement to be certificated as a CMV mechanic? If so, could it be done through a knowledge and skills demonstration?

3. Inspection Documentation

a. What are the benefits of using on-board computers?

b. Should FHWA require on-board computers to record safety and performance data?

c. What data should be required?

d. What is the most appropriate method of ensuring the vehicle is safe both prior to use and just after use? [see §§ 392.7 and 396.11]

4. Equipment Standards

What is the feasibility of a safety self-diagnostic system for CMVs? Is prevention cost-beneficial?

5. Documentation

What vehicle safety documentation should be maintained on the vehicle to provide adequate safety oversight by enforcement personnel?

Motor Carrier Requirements

1. Safety Fitness

a. What is safety fitness? Should there be various levels?

b. Is there a minimal acceptable level of safety fitness? [see §§ 385.3, 385.5, and 385.7]

c. Do size and weight violations have a correlation to accidents? Should size and weight violations be considered in the safety fitness determination?

d. Should CDL violations, and other traffic violations, be considered in the safety fitness determination?

2. Driver and Vehicle Information

Because there are privacy implications to information gathering on drivers, is there a network potential for carrier exchange of driver information? Could motor carriers access State motor vehicle databases to check driver information?

3. Documentation

a. What documentation must be maintained by a carrier that indicates satisfactory safety performance?

b. What minimum documentation must a carrier maintain to ensure that a driver and a vehicle is safe?

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: September 1, 1994.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 94–22394 Filed 9–9–94; 8:45 am]

BILLING CODE 4910–22–P

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Vol. 59, No. 175

Monday, September 12, 1994

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3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

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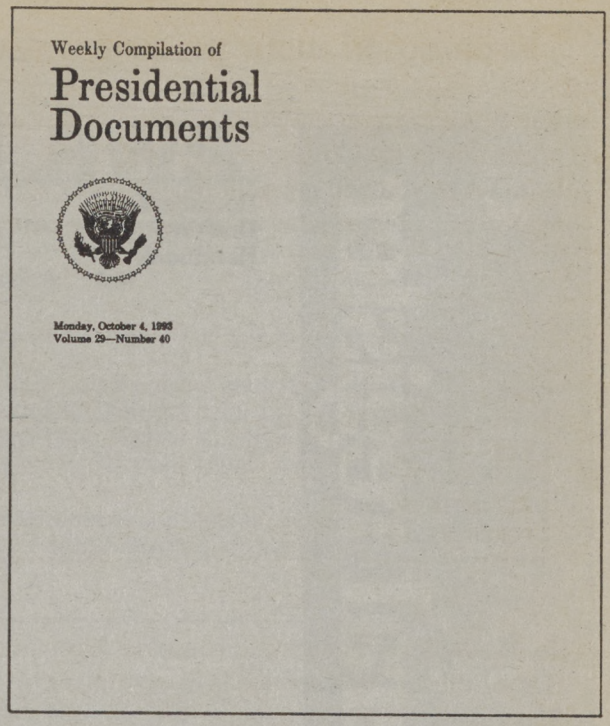
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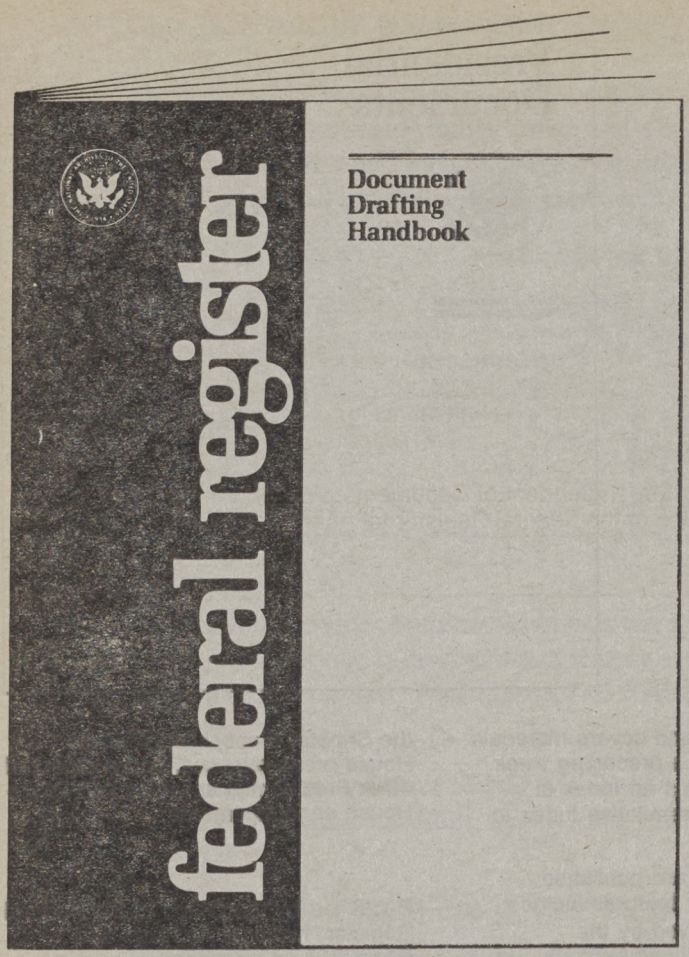
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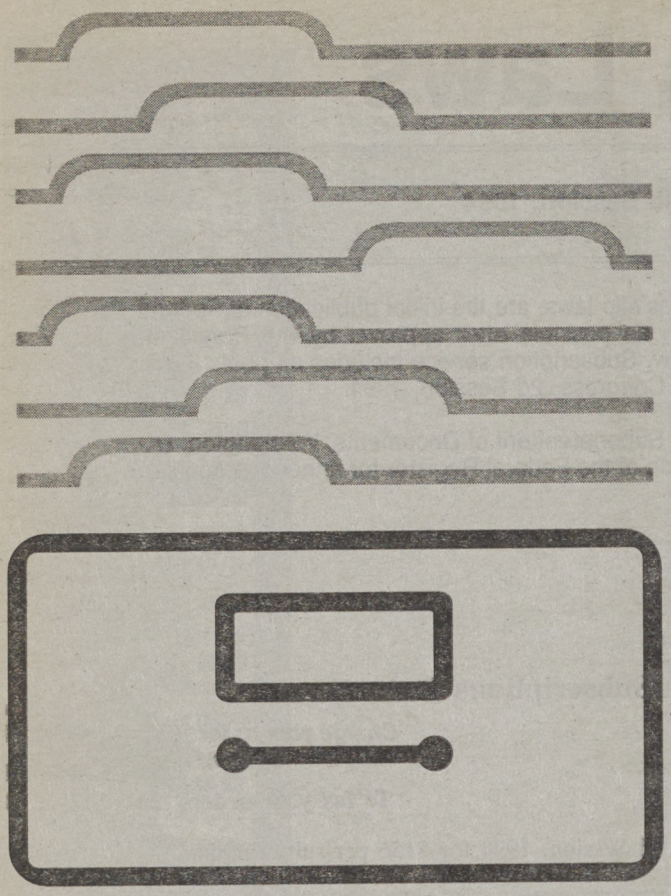
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