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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: February 17 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 733

RIN 3206–AF78

Political Activity of Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations concerning the political activities of Federal employees to reflect changes resulting from the Hatch Act Reform Amendments of 1993, which President Clinton signed on October 6, 1993. The scope of these interim regulations is limited to matters concerning exemptions for employees residing in certain localities, from the prohibitions specified in the amended 5 U.S.C. 7323(a) (2) and (3) on candidacy for partisan political office and on soliciting, accepting, or receiving political contributions.

DATES: Effective date: February 3, 1994. Comments must be received on or before April 4, 1994.

ADDRESSES: Send written comments to Lorraine Lewis, General Counsel, Office of Personnel Management, room 7355, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot or Gail Goldberg, (202) 606–1700.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(b)(3)(B) of title 5, United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of the limited time in which to issue regulations, and OPM's desire that current partial exemptions for the Federally employed residents of designated localities continue in effect without interruption.

The Hatch Act Reform Amendments of 1993, Public Law 103–94, specifically authorize OPM to issue regulations on the political activities of Federal employees with regard to the matters specified in 5 U.S.C. 7325, as amended, concerning Federal employees' participation in local elections of certain localities in which they reside. Section 12(a) of the Reform Amendments provides that the regulatory authority granted by the amended 5 U.S.C. 7325 shall take effect on the date of the enactment of the Amendments.

The title of Part 733 has been changed accordingly to reflect that the interim regulations concern the political activity of Federal employees who reside in designated localities. The authority statement also has been changed to show that OPM's authority to issue these regulations is 5 U.S.C. 7325, as amended. Section 733.101 of the interim regulations includes definitions of "employee," "political contribution," and "partisan political office" which correspond with the definitions in the Reform Amendments. The definition of "employee" further reflects that employees of the United States Postal Service and the Postal Rate Commission specifically are covered under the Reform Amendments.

The Reform Amendments permit active participation in partisan political activities but prohibit employees from seeking public office in partisan elections. Although the Reform Amendments authorize OPM to issue regulations permitting employees to run as partisan political candidates for local office, section 10 of the Amendments reflects the intent of the Senate that employees should not be authorized to run for a local partisan political office, except as expressly provided under current law.

The Hatch Act, at 5 U.S.C. 7327, currently authorizes OPM to prescribe regulations permitting the Federally employed residents of designated localities to participate actively in local partisan elections, and does not require employees to run as independent candidates in these elections. However, regulations promulgated under the Hatch Act included this requirement. In view of section 10 of the Reform Amendments, OPM believes that candidacy for partisan political office in local elections should be limited to independent candidacies. Paragraph (a)(1) of § 733.102 of the interim regulations accordingly permits employees who reside in designated localities to run for partisan political office in local elections, but only as independent candidates.

Paragraph (a)(2) of § 733.102 permits these employees to accept or receive political contributions in connection with partisan elections for local public office. In view of the intent of the Senate that Federal employees should not be permitted to solicit political contributions from the general public, OPM has prohibited the solicitation of political contributions from the general public in paragraph (b). Paragraph (c) specifies that candidacy for, and service in, a partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest. Paragraph (d) specifies the conditions under which OPM may designate localities in which employees may participate more actively in local partisan elections, and also incorporates the existing list of designated localities.

Although the Reform Amendments permit most Federal employees to participate actively in political management or in political campaigns, Federal employees in specified agencies and offices are prohibited from such participation. Therefore, § 733.103 of the interim regulations excludes these employees from coverage under part 733.

Finally, subparts B and C are removed from the part 733 because they clearly are outdated. Subpart B concerns violations of the Hatch Act by excepted service employees, and subpart C applies the Hatch Act's prohibitions to Postal Service employees.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they relate to internal personnel matters within the Federal Government.

List of Subjects in 5 CFR Part 733

Political activities (Federal employees).

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, the Office of Personnel Management is revising 5 CFR part 733 to read as follows:

PART 733—POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

Sec.

733.101 Definitions.
733.102 Political activities permitted—employees residing in designated localities.
733.103 Exclusion of employees in certain agencies and offices.

Authority: 5 U.S.C. 7325.

§ 733.101 Definitions.

In this part:

Employee means:

Any individual (other than the President, the Vice President, or a member of the uniformed services) employed or holding office in—

(1) An Executive agency other than the General Accounting Office;

(2) A position within the competitive service which is not in an Executive agency;

(3) The government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds; or

(4) The United States Postal Service or the Postal Rate Commission.

Partisan political office means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but does not include any office or position within a political party or affiliated organization.

Political contribution means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose. A political contribution includes:

(1) Any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(2) Any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(3) The provision of personal services for any political purpose.

§ 733.102 Political activities permitted—employees residing in designated localities.

(a) Employees who reside in a municipality or political subdivision designated by OPM under paragraph (d) of this section may:

(1) Run as independent candidates for election to partisan political office in elections for local offices of the municipality or political subdivision; and

(2) Accept or receive political contributions in connection with the local elections of the municipality or political subdivision.

(b) Employees may not solicit political contributions from the general public.

(c) Candidacy for, and service in, a partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent confict, of interest.

(d) OPM may designate a municipality or political subdivision in Maryland or Virginia in the immediate vicinity of the District of Columbia, or a municipality in which the majority of voters are employed by the Government of the United States, when OPM determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections. Information as to the documentation required to support a request for designation is furnished by the General Counsel of OPM on request. The following municipalities and political subdivisions have been designated, effective on the day specified:

In Maryland

Annapolis (May 16, 1941).
Anne Arundel County (March 14, 1973).
Berwyn Heights (June 15, 1944).
Bethesda (Feb. 17, 1943).
Bladensburg (Apr. 20, 1942).
Bowie (Apr. 11, 1952).
Brentwood (Sept. 26, 1940).
Calvert County (June 18, 1992).
Capitol Heights (Nov. 12, 1940).
Cheverly (Dec. 18, 1940).
Chevy Chase, Martin's Additions 1, 2, 3, and 4 (Feb. 13, 1941).
Chevy Chase, section 1 and 2 (Mar. 4, 1941).
Chevy Chase, section 3 (Oct. 8, 1940).
Chevy Chase, section 4 (Oct. 2, 1940).
Chevy Chase View (Feb. 26, 1941).
College Park (June 13, 1945).
Cottage City (Jan. 15, 1941).
District Heights (Nov. 2, 1940).
Edmonston (Oct. 24, 1940).
Fairmont Heights (Oct. 24, 1940).
Forest Heights (Apr. 22, 1949).
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Greenbelt (Oct. 4, 1940).
Howard County (Apr. 25, 1974).
Hyattsville (Sept. 20, 1940).
Kensington (Nov. 8, 1940).
Landover Hills (May 5, 1945).
Montgomery County (Apr. 30, 1964).
Morningside (May 19, 1949).
Mount Rainier (Nov. 22, 1940).
New Carrollton (July 7, 1981).
North Beach (Sept. 20, 1940).
North Brentwood (May 6, 1941).
North Chevy Chase (July 22, 1942).
Northwest Park (Feb. 17, 1943).
Prince Georges County (June 19, 1962).
Riverdale (Sept. 26, 1940).
Rockville (Apr. 15, 1948).
Seat Pleasant (Aug. 31, 1942).
Somerset (Nov. 22, 1940).
Takoma Park (Oct. 22, 1940).
University Park (Jan. 18, 1941).
Washington Grove (Apr. 5, 1941).

In Virginia

Alexandria (Apr. 15, 1941).
Arlington County (Sept. 9, 1940).
Clifton (July 14, 1941).
Fairfax, Town of (Feb. 9, 1954).
Fairfax County (Nov. 10, 1949).
Falls Church (June 6, 1941).
Herndon (Apr. 7, 1945).
Loudoun County (Oct. 1, 1971).
Manassas (Jan. 8, 1980).
Manassas Park (Mar. 4, 1980).
Portsmouth (Feb. 27, 1958).
Prince William County (Feb. 14, 1967).
Stafford County (Nov. 2, 1979).
Vienna (Mar. 18, 1946).

Other Municipalities

Anchorage, Alaska (Dec. 29, 1947).
Benicia, Calif. (Feb. 20, 1948).
Bremerton, Wash. (Feb. 27, 1946).
Centerville, Ga. (Sept. 16, 1971).
Crane, Ind. (Aug. 3, 1967).
District of Columbia (July 5, 1977).
Elmer City, Wash. (Oct. 28, 1947).
Huachuca City, Ariz. (Apr. 9, 1959).
New Johnsonville, Tenn. (Apr. 26, 1956).
Norris, Tenn. (May 6, 1959).
Port Orchard, Wash. (Feb. 27, 1946).
Sierra Vista, Ariz. (Oct. 5, 1955).
Warner Robins, Ga. (Mar. 19, 1948).

§ 733.103 Exclusion of employees in certain agencies and offices.

Employees in the following agencies or offices (except employees appointed by the President, by and with the advice and consent of the Senate) specifically are excluded from coverage under the provisions of part 733:

(a) Federal Election Commission;

(b) Federal Bureau of Investigation;

(c) Secret Service;

(d) Central Intelligence Agency;

(e) National Security Council;

(f) National Security Agency;

(g) Defense Intelligence Agency;

(h) Merit Systems Protection Board;

(i) Office of Special Counsel;

(j) Office of Criminal Investigation of the Internal Revenue Service;

(k) Office of Investigative Programs of the United States Customs Service;

(l) Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;

(m) Criminal Division of the Department of Justice;

(n) Career appointees in the Senior Executive Service;

(o) Administrative law judges; and

(p) Contract appeals board members described in 5 U.S.C. 5372a.

[FR Doc. 94–2763 Filed 2–2–94; 4:02 pm]

BILLING CODE 6325–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Conforming amendments.

SUMMARY: This document contains amendments to 17 CFR Part 3 to reflect changes required by enactment of the Futures Trading Practices Act of 1992.

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Barbara Webster Black, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–9880.

SUPPLEMENTARY INFORMATION:

Background

In light of the recent passage of the Futures Trading Practices Act of 1992, 102 Cong., 2d Sess., Public Law 102–546 (Oct. 28, 1992), which amended the Commodity Exchange Act, the Commission has determined that 17 CFR Part 3, Registration, should be amended to reflect the changes in the Commodity Exchange Act resulting from the Futures Trading Practices Act of 1992.

Need for Correction

As published, the regulations contain references to designations of statutory provisions which have been changed and typographical errors which are in need of clarification.

List of Subjects in 17 CFR Part 3

Commodity futures, Reporting and recordkeeping requirements.

PART 3—REGISTRATION

Accordingly, 17 CFR Part 3 is amended by making the following conforming amendments:

1. The authority citation for part 3 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 4a, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23; 5 U.S.C. 552, 552b.

Subpart B—[Amended]

2. The authority citation for Part 3, Subpart B—Temporary Licenses is removed.

Subpart C—[Amended]

3. The authority citation for Part 3, Subpart C—Denial, Suspension or Revocation of Registration is removed.

Subpart D—[Amended]

4. The authority citation for Part 3, Subpart D—Notice Under Section 4k(5) of the Act is removed.

Subpart E—[Amended]

5. The authority citation for Part 3, Subpart E—Delegation and Reservation of Authority is removed.

§ 3.75 [Amended]

6. In § 3.75(d), the phrase "section 6(b) of the Act." is revised to read "section 6(c) of the Act.".

Appendix A to Part 3—[Amended]

7. The authority citation for Appendix A to Part 3—INTERPRETATIVE STATEMENT WITH RESPECT TO SECTION 8a(2) (C) and (E) AND SECTION 8a(3) (J) AND (M) OF THE COMMODITY EXCHANGE ACT is removed.

8. In Appendix A to part 3, the seventh paragraph, headed Section 8a(2)(E), is revised to read:

"Section 8a(2)(E) of the Act authorizes the Commission to affect the registration of any person:

If such person, within ten years preceding the filing of the application or at any time thereafter, has been found in a proceeding brought by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, [the securities acts], chapter 96 of title 18 of the United States Code, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

9. In Appendix A to part 3, in the footnote to the first sentence of the ninth paragraph, the phrase "Specifically, section 2(a)(1)(A) of the Act" is revised to read "Specifically section 2(a)(1)(A)(iii) of the Act".

10. In Appendix A to Part 3, the fourteenth paragraph, headed Section 8a(3)(J), is revised to read:

"Section 8a(3)(J) authorizes the Commission to affect the registration of any person if:

such person is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, any other self-regulatory organization or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program, or barring or suspending such person from being associated with any member or members of such contract market, association, self-regulatory organization, or foreign regulatory body.

Issued in Washington, DC on January 25, 1994, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94–2141 Filed 2–3–94; 8:45 am]

BILLING CODE 6351–01–M

17 CFR Part 5

Designation of and Continuing Compliance by Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Conforming amendments.

SUMMARY: This document contains amendments to 17 CFR part 5 to reflect changes required by enactment of the Futures Trading Practices Act of 1992.

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Barbara Webster Black, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–9880.

SUPPLEMENTARY INFORMATION:

Background

In light of the recent passage of the Futures Trading Practices Act of 1992, 102 Cong., 2d Sess., Public Law 102–546 (Oct. 28, 1992), which amended the Commodity Exchange Act, the Commission has determined that 17 CFR part 5, Designation of and Continuing Compliance by Contract Markets, should be amended to reflect the changes in the Commodity Exchange Act resulting from the Futures Trading Practices Act of 1992.

Need for Correction

As published, the regulations contain references to designations of statutory

provisions which have been changed and typographical errors which are in need of clarification.

List of Subjects in 17 CFR Part 5

Commodity futures, Reporting and recordkeeping requirements.

Accordingly, 17 CFR part 5 is amended by making the following conforming amendments:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

§ 5.2 [Amended]

1. In § 5.2(b), the phrase "section 5a(12) of the Act" is revised to read "section 5a(a)(12)(A) of the Act".

2. In § 5.2(c)(1), the phrase "section 5a(12) of the Act" is revised to read "section 5a(a)(12)(A) of the Act".

Appendix A to Part 5

3. In the first paragraph of Appendix A to Part 5, the phrase "sections 4c, 5, and 5a of the Commodity Exchange Act," is revised to read "Sections 4c, 5, and 5a(a) of the Commodity Exchange Act,".

4. In sec. (a)(4) of Appendix A to Part 5, the phrase "section 5(g) of the Act," is revised to read "section 5(7) of the Act,".

5. In sec. (b)(4) of Appendix A to Part 5, the phrase "section 5(g) of the Act," is revised to read "section 5(7) of the Act,".

6. In sec. (c)(6) of Appendix A to Part 5, the phrase "section 5(g) of the Act," is revised to read "section 5(7) of the Act,".

Issued in Washington, D.C. on January 25, 1994, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94-2143 Filed 2-3-94; 8:45 am]

BILLING CODE 6351-01-M

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17 CFR Part 7

Contract Market Rules Altered or Supplemented by the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Conforming amendment.

SUMMARY: This document contains an amendment to 17 CFR part 7 to reflect changes required by enactment of the Futures Trading Practices Act of 1992.

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Barbara Webster Black, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-9880.

SUPPLEMENTARY INFORMATION:

Background

In light of the recent passage of the Futures Trading Practices Act of 1992, 102 Cong., 2d Sess., Public Law 102-546 (Oct. 28, 1992), which amended the Commodity Exchange Act, the Commission has determined that 17 CFR part 7, Contract Market Rules Altered or Supplemented by the Commission, should be amended to reflect the changes in the Commodity Exchange Act resulting from the Futures Trading Practices Act of 1992.

Need for Correction

As published, the regulations contain a reference to a designation of a statutory provision which has been changed and which is in need of clarification.

List of Subjects in 17 CFR Part 7

Commodity futures.

Accordingly, 17 CFR part 7 is amended by making the following conforming amendment:

PART 7—CONTRACT MARKET RULES ALTERED OR SUPPLEMENTED BY THE COMMISSION

The authority citation for part 7 is revised to read as follows:

Authority: 7 U.S.C. 7a(a)(12)(A) and 12a(7).

Issued in Washington, D.C. on January 25, 1994, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94-2144 Filed 2-3-94; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Emergency Permit Matters

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to general redelegations of authority from the Commissioner of Food and Drugs by making revisions to the regulations on initial emergency permit orders and notices of confirmation of effective date of final regulations on food matters. This amendment to the regulations will include foods for animal as well as human consumption and will add the Director and Deputy Director, Center for Veterinary Medicine (CVM), to those already delegated authority.

EFFECTIVE DATE: February 4, 1994.

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

SUPPLEMENTARY INFORMATION: FDA is amending the regulations in § 5.62 *Issuance of initial emergency permit orders and notices of confirmation of effective date of final regulations on food matters* (21 CFR 5.62) to include foods for animal as well as human consumption, and to give the Director and Deputy Director, CVM authority to issue initial emergency permit orders under § 508.5 (21 CFR 508.5) and to confirm the effective date of final regulations on animal food matters.

This document is issued as a final rule because the rulemaking requirements in 5 U.S.C. 553 do not apply to rules of agency organization, procedure, or practice.

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

List of Subjects in 21 CFR Part 5

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

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

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

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

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

of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.62 is amended by revising the section heading and the text, by redesignating the text as paragraph (a), and by adding new paragraph (b) to read as follows:

§ 5.62 Issuance of initial emergency permit orders and notices of confirmation of effective date of final regulations on food for human and animal consumption.

(a) The Director and Deputy Director, Center for Food Safety and Applied Nutrition, are authorized to issue initial emergency permit orders under § 108.5 of this chapter and notices of confirmation of effective date of final regulations on human food matters promulgated under section 701(e) of the Federal Food, Drug, and Cosmetic Act (the act).

(b) The Director and Deputy Director, Center for Veterinary Medicine, are authorized to issue initial emergency permit orders under § 508.5 of this chapter for foods for animals and notices of confirmation of the effective date of final regulations on animal food matters promulgated under section 701(e) of the act.

Dated: January 27, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–2473 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 5

Delegations of Authority and Organization

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to the award of service fellowships in order to add two new authorities to the existing delegation, to update the list of those authorized to approve the authorities and to add additional officials to the list of those already delegated authority. This action gives officials that designate persons to receive service fellowships, the authorities to appoint service fellows, and to determine specific stipend rates for individual actions within the ranges established under an approved service fellowship plan.

EFFECTIVE DATE: February 4, 1994.

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

SUPPLEMENTARY INFORMATION: FDA is amending the regulations in § 5.26 *Service fellowships* (21 CFR 5.26) to redelegate two additional service fellowship authorities given to the Commissioner of Food and Drugs in a January 8, 1993, memorandum, from the Deputy Assistant Secretary for Health Management Operations, Public Health Service. These authorities add to the authority to designate persons to receive service fellowships, the authorities to appoint service fellows, and to determine specific stipend rates for individual actions within the ranges established under an approved service fellowship plan. The authority to approve service fellowship plans and exceptions thereto has not been redelegated to FDA. FDA is additionally amending § 5.26 to reflect organizational changes within the centers, and to add the Deputy Director for Regulations and Policy, Center for Devices and Radiological Health, the Office Directors, Center for Biologics Evaluation and Research, and the Director, Office of Human Resources Management, Office of Management Systems, to those already delegated authority.

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

List of Subjects in 21 CFR Part 5

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

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

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

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

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

2. Section 5.26 is amended by revising the introductory text, by revising paragraphs (a), (c), (d), (e), and (h) and by adding new paragraph (i) to read as follows:

§ 5.26 Service fellowships.

Under authority of sections 207(g) and 208(f) of the Public Health Service Act (42 U.S.C. 209(g) and 210(f)), and within the limits of an approved service fellowship plan, the following officials are authorized to designate persons to receive service fellowships, appoint service fellows, and determine specific stipend rates for individual actions within the ranges established under an approved service fellowship plan:

(a) Deputy Commissioners.

* * * * *

(c) The Director, Center for Devices and Radiological Health (CDRH), the Deputy Director for Science, CDRH, the Deputy Director for Regulations and Policy, CDRH, and the Director, Office of Management Services, CDRH.

(d) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER), the Associate Director for Research, CBER, and Office Directors.

(e) The Director and Deputy Director, Center for Food Safety and Applied Nutrition (CFSAN), and Director, Office of Management Systems, CFSAN.

* * * * *

(h) The Director, Office of Resource Management, Office of Regulatory Affairs.

(i) The Director, Office of Human Resources Management, Office of Management and Systems.

Dated: January 27, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–2471 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 172

[Docket No. 92F–0055]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Dimethyl Dicarbonate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for

the safe use of dimethyl dicarbonate as a yeast inhibitor in ready-to-drink tea beverages. This action is in response to a petition filed by Miles, Inc. (formerly Mobay Corp.).

DATES: Effective February 4, 1994; written objections and requests for a hearing by March 7, 1994.

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

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of March 10, 1992 (57 FR 8460), FDA announced that a food additive petition (FAP 2A4310) had been filed by Miles, Inc., Mobay Rd., Pittsburgh, PA 15205–9741, proposing that the food additive regulations in § 172.133 *Dimethyl dicarbonate* (21 CFR 172.133) be amended to provide for the safe use of dimethyl dicarbonate as a yeast inhibitor in ready-to-drink tea beverages.

As discussed in more detail below, FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of dimethyl dicarbonate (DMDC) in ready-to-drink tea beverages is safe.

II. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause," a food additive cannot be approved for a particular use unless a fair evaluation of the evidence establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The anticancer or Delaney clause of the Food Additives Amendment (section 409(c)(3)(A) of the act) further provides that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself, not to constituents of the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, such additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

III. Safety of Dimethyl Dicarbonate in Ready-to-Drink Tea Beverages

Dimethyl dicarbonate is currently permitted as a yeast inhibitor in wine and wine substitutes (dealcoholized wine and low alcohol wine) under § 172.133. In the final rules establishing this regulation (53 FR 41325, October 21, 1988; and 58 FR 6088. January 26, 1993) the agency concluded that, because dimethyl dicarbonate decomposes almost immediately after addition to beverages, there will be virtually no exposure of the consumer to the additive from its use in wine and wine substitutes.

Data submitted in the petition concerning the use of the additive in tea beverages are consistent with these findings in wine and wine substitutes. Specifically, data from a study on the hydrolysis of dimethyl dicarbonate in tea showed no detectable amount of the additive after 4 hours (limit of analytical detectability = 40 parts per billion (ppb)) (Ref. 1). Based on these data, the agency concludes that there will be virtually no consumer exposure to dimethyl dicarbonate from the use of the additive in ready-to-drink tea beverages. Therefore, FDA concludes that dimethyl dicarbonate itself presents no hazard to the consumer.

IV. Safety of Substances That May Be Present in Tea Beverages Due to the Use of the Additive

Dimethyl dicarbonate is unstable in aqueous solution and breaks down almost immediately after addition to beverages. In aqueous liquids, the principal breakdown products are methanol and carbon dioxide. Methyl ethyl carbonate, as well as carbomethoxy amino- and hydroxy-adducts of amines, sugars, and fruit acids may also be formed in minor amounts. Dimethyl carbonate is present as an impurity in dimethyl dicarbonate. Dimethyl dicarbonate also may react with traces of ammonia or ammonium ions to form trace quantities of methyl carbamate, a compound that has been shown to cause cancer in laboratory animals (Ref. 2).

In approving the use of dimethyl dicarbonate in wine and wine substitutes, the agency, in accordance with 21 CFR 171.1, reviewed the safety not only of dimethyl dicarbonate but also of its decomposition products in aqueous beverages. The same analysis from that review was applied by the agency in reviewing the petitioned use of dimethyl dicarbonate in ready-to-drink tea beverages. The results of the agency's analysis of the additive's use in wine and wine substitutes were discussed extensively in the **Federal Register** of October 21, 1988, and January 26, 1993, final rules, which are referenced; that analysis applies equally to the evaluation of the petitioned use of DMDC. Aspects of the safety evaluation of the decompostion products that may result from the use of dimethyl dicarbonate in ready-to-drink tea beverages that were not discussed previously are discussed below.

A. Minor Reaction Products

In its previous evaluation of the safety of minor breakdown products of dimethyl dicarbonate in aqueous solutions, the agency concluded that there is no evidence of added risk from exposure to those minor products. For this petition, the agency also evaluated results from an acute toxicity study on a series of putative adducts (*N*-carbomethoxy conjugates of trigallic acid, glycine, glutamic acid, alanine, proline, asparagine, cysteine, phenylalanine, arginine, leucine, and monocysteine) that may be formed by dimethyl dicarbonate when added to ready-to-drink tea beverages. Results of the study showed that LD_{50} for each of the adducts in mice or rats ranged between 4,600 and >15,000 milligrams per kilogram body weight (mg/kg body weight), thereby indicating the low order of acute toxicity of those substances (Ref. 3).

B. Methanol

FDA previously estimated that the total human exposure to methanol from consumption of food that naturally contains methanol and of wine or wine substitutes that are treated with dimethyl dicarbonate to be 50 to 60 mg per person per day (mg/person/day) (58 FR 6088). The tolerable (safe) level for methanol is 7.1 to 8.4 mg/kg body weight (426 to 504 mg/person/day for a 60-kg adult) based on reports of studies in human subjects (Ref. 4). The agency estimates that the methanol exposure from the petitioned use of dimethyl dicarbonate in ready-to-drink tea would be 40 mg/person/day at tea intake of 332 grams(g)/person/day (90th percentile) (Ref. 1). This would increase the human exposure to methanol to 90 to 100 mg/person/day (to approximately one-fifth of the tolerable safe level). The agency, therefore, concludes that there is an adequate margin of safety between the methanol consumption from the use of dimethyl dicarbonate and the amount of

methanol that can be safely ingested (Ref. 4).

C. Methyl Carbamate

Methyl carbamate, a carcinogen, was detected in wines treated with dimethyl dicarbonate; based on a quantitative risk assessment, the agency concluded that there was a reasonable certainty of no harm from exposure to methyl carbamate in wines and wine substitutes (58 FR 6088 at 6090).

Methyl carbamate was not detected in dimethyl dicarbonate-treated ready-to-drink tea, using an analytical method with a limit of detection of 5 ppb. Assuming that methyl carbamate could be present at 2.5 ppb (one-half the limit of detection) and using an estimated value for intake of tea beverages (332 g/person/day (90th percentile)), FDA estimates that the exposure to methyl carbamate from the petitioned use of dimethyl dicarbonate would be no more than 0.8 microgram/person/day (Ref. 1) for individuals consuming ready-to-drink tea at the 90th percentile level. Using the same principles and quantitative risk assessment procedure that were applied to the wine and wine substitutes, as discussed in the **Federal Register** of October 21, 1988, and January 26, 1993, final rules, and the exposure to methyl carbamate estimated above, FDA estimates that the upper-bound limit of individual lifetime risk from potential exposure to methyl carbamate from the use of dimethyl dicarbonate in ready-to-drink tea is 7.8×10^{-9}, or less than 1 in 128 million (Refs. 3, 5, and 6).

Therefore, the agency concludes that there is a reasonable certainty of no harm from the exposure to methyl carbamate that may result from the use of up to 250 ppm of dimethyl dicarbonate in ready-to-drink tea beverages.

D. Conclusion On Safety

FDA has evaluated all of the data in the petition pertaining to the use of dimethyl dicarbonate in ready-to-drink tea beverages and concludes that the additive is safe for its proposed use.

To ensure the safe use of the additive in ready-to-drink tea beverages, FDA, under 21 U.S.C. 348(c)(1)(A), is amending § 172.133(c)(2) to require directions on the food additive label limiting the level of use of the additive in tea beverages to 250 ppm.

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

V. Environmental Impact

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

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 7, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday:

1. Memorandum from the Food and Color Additives Review Section to the Direct Additives Branch, "FAP 2A4310: Mobay Corp. Dimethyl Dicarbonate (DMDC) for Use in Ready-to-Drink Tea Beverages. Submission of 12–20–91," dated July 29, 1992.

2. NTP Technical Report on the Toxicology and Carcinogenesis Studies of Methyl Carbamate in F344/N Rats and B6C3F1 Mice, NTP, U.S. Department of Health and Human Services, Report No. 328, 1986.

3. Memorandum from the Additives Evaluation Branch to the Direct Additives Branch, "Dimethyl Dicarbonate as a Yeast Inhibitor in Ready-to-Drink Tea Beverages at levels up to 250 ppm. FCARS memo dated July 29, 1992," dated September 3, 1992.

4. Memorandum from the Standards and Monitoring Branch to the Division of Regulatory Guidance, "Methanol in Brandy," dated August 3, 1989.

5. Memorandum from the Additives Evaluation Branch to the Direct Additives Branch, "Memo of the Quantitative Risk Assessment Committee, Nov. 16, 1992, and Final Toxicological Evaluation of Dimethyl Dicarbonate (DMDC) for Use in Ready-to-Drink (RTD) Tea Beverages," dated January 4, 1993.

6. Report of the Quantitative Risk Assessment Committee, "Dimethyl Dicarbonate (DMDC) for Use in Ready-to-Drink Tea Beverages. FAP 2A4310 (Mobay Corp.)," dated November 16, 1992.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

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

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

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

2. Section 172.133 is amended by revising the introductory text and paragraphs (b) and (c)(2) to read as follows:

§ 172.133 Dimethyl dicarbonate.

Dimethyl dicarbonate (CAS Reg. No. 4525–33–1) may be safely used in food in accordance with the following prescribed conditions:

* * * * *

(b) The additive is used or intended for use as follows:

(1) Inhibitor of yeast in wine, dealcoholized wine, and low alcohol wine, under normal circumstances of bottling where the viable yeast count has been reduced to 500 per milliliter or less by current good manufacturing practices such as flash pasteurization or

filtration. The additive may be added to wine, dealcoholized wine, or low alcohol wine in an amount not to exceed 200 parts per million (ppm).

(2) Inhibitor of yeast in ready-to-drink teas, under normal circumstances of bottling or canning where the viable yeast count has been reduced to 500 per milliliter or less by current good manufacturing practices such as heat treatment, sterile filtration, or both. The additive may be added to teas in an amount not to exceed 250 ppm.

(c) * * *

(2) Directions to provide that not more than 200 ppm of dimethyl dicarbonate will be added to the wine, dealcoholized wine, or low alcohol wine and not more than 250 ppm of dimethyl dicarbonate will be added to the ready-to-drink tea.

* * * * *

Dated: January 25, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–2474 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 87

[Docket No. R–94–1705; FR–3574–F–01]

RIN 2501–AB66

Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions; Change in Threshold for Single Family Compliance

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule complies with a statutory amendment to raise, for single family mortgage transactions, the threshold for compliance with the government-wide certification and disclosure requirements on lobbying.

EFFECTIVE DATE: March 7, 1994.

FOR FURTHER INFORMATION CONTACT: Garry Phillips, Acting Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD number (202) 708–1112. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On October 23, 1989, section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (Pub. L. 101–121) was enacted. This provision amended subchapter III of chapter 13 of title 31, United States Code, to add a new section 1352 (the "Byrd Amendment"). The Byrd Amendment contains a general prohibition on the use of federally appropriated funds for influencing any Executive or Legislative Branch personnel in the award of Federal contracts, grants, loans, cooperative agreements, and certain post-award actions (such as the modification or extension of any of these forms of assistance). It also requires disclosure of certain information on payments from non-federally-appropriated funds that are used to influence the above Federal actions, as well as the insurance or guarantee of loans. The Byrd Amendment applies to all Federal agencies and was implemented by a government-wide common rule that was published in the **Federal Register** on February 26, 1990, at 55 FR 6736. HUD's adoption of the common rule is set forth at 24 CFR part 87.

Under the provisions of 24 CFR 87.110, each person who makes a submission for consideration of an award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000, or receives such an award, must file a certification regarding the prohibition discussed above and a disclosure form (Standard Form LLL, "Disclosure of Lobbying Activities"), if indicated by the use of non-federally-appropriated funds to influence the covered actions.

Section 320 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Pub. L. 101–512) amended section 1352(e)(2)(c) of the Byrd Amendment to expand the original exception for loan guaranty and insurance transactions of $150,000 or less to also except guaranty/insurance transactions when the amount is within the applicable single family mortgage limit. Under HUD's new higher mortgage limits, transactions in a number of states could exceed the $150,000 threshold. Accordingly 24 CFR 87.110 (a)(2) and (b)(2) are amended to reflect this technical change by adding to the references to $150,000 "or the single family maximum mortgage limit for affected programs, whichever is greater."

Other Matters

Justification for Final Rule Making

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rule making, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary and contrary to public interest. This rule makes a technical amendment in compliance with a statutory change which reduces the burden on the public.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule applies to single family mortgage transactions only and relieves the certification and disclosure requirements which might have applied in some circumstances.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the order. This rule applies to single family mortgage transactions for certain HUD programs only.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has

determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as Item No. 1455 in the Department's Semiannual Agenda of Regulations published on October 25, 1993, at 58 FR 56402, 56412, in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects for 24 CFR Part 87

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 87 is amended as follows:

PART 87—NEW RESTRICTIONS ON LOBBYING

1. The authority for part 87 is revised to read as follows:

Authority: 31 U.S.C. 1352; 42 U.S.C. 3535(d).

2. In § 87.110, paragraphs (a)(2) and (b)(2) are revised to read as follows:

§ 87.110 Certification and disclosure.

(a) * * *

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

(b) * * *

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

* * * * *

Dated: January 4, 1994.

Henry G. Cisneros,

Secretary.

[FR Doc. 94–2621 Filed 2–3–94; 8:45 am]

BILLING CODE 4210–32–P

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 970

[Docket No. N–94–1689; FR–3528–N–03]

Public and Indian Housing Program—Demolition or Disposition of Public and Indian Housing Projects—Required and Permitted PHA/IHA Actions Prior to Approval; Extension of Delay of Effective Date

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice; extension of delay of effective date of final rule.

SUMMARY: Existing regulations require that a PHA or IHA not take any action to demolish or dispose of a public or Indian housing project or a portion of a public or Indian housing project without obtaining HUD approval under the provisions of 24 CFR parts 970 or 905, respectively. On November 4, 1993, the Department promulgated a final rule that clarifies that until such time as HUD approval may be obtained, the PHA or IHA must not take any action intended to further the demolition or disposition of a public housing project or a portion of a public housing project without obtaining HUD approval under 24 CFR parts 970 or 905, respectively. Furthermore, until such time as HUD approval is obtained, the PHA or IHA must prevent further deterioration of the physical condition of the project, other than deterioration incident to normal use, and is responsible under the ACC to continue providing emergency repair services and routine maintenance for occupied projects.

On December 6, 1993, a notice was published to delay the effective date of the final rule from December 6, 1993, until February 4, 1994. This notice further delays the effective date of the final rule for an additional 60 days.

EFFECTIVE DATE: Effective February 4, 1994, the effective date of the final rule published at 58 FR 58784 is delayed until April 5, 1994.

FOR FURTHER INFORMATION CONTACT: William R. Minning, Director, Policy Division, Office of Management and Policy, (202) 708–0713. The telecommunications device for deaf persons (TDD) is available at (202) 708–0850. (The telephone numbers provided are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: On November 4, 1993, at 58 FR 58784, the Department issued a final rule regarding required and permitted actions that a PHA or IHA may take prior to approval of an application for demolition or disposition of a public or Indian Housing project or a portion of a public or Indian housing project. The final rule had an effective date of December 6, 1993, and a notice was published in the **Federal Register** on December 6, 1993 (58 FR 64141) that delayed that effective date until February 4, 1994, because serious concerns had been expressed about the impact of some of the provisions of the final rule on residents and resident organizations.

In the spirit of cooperation, the Department wishes to further delay the effective date of the final rule so that further review of this rule may be conducted.

Accordingly, in FR Doc. 93–29687, published in the **Federal Register** on December 6, 1993, at 58 FR 64141, the effective date for the referenced final rule regarding the Public and Indian Housing Program is further delayed until April 5, 1994.

Dated: January 26, 1994.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–2389 Filed 2–3–94; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Parts 600 and 603

[A.G. Order No. 1844–94]

Independent Counsel: In re Madison Guaranty Savings & Loan Association

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule sets forth the jurisdiction of the Independent Counsel: In re Madison Guaranty Savings & Loan Association, appointed by the Attorney General pursuant to her statutory authority under 28 U.S.C. 509, 510, and 543, and 5 U.S.C. 301. The Attorney General has appointed this Independent Counsel to investigate whether any individuals or entities have committed a violation of any federal criminal or civil law relating to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with the Madison Guaranty Savings & Loan Association, the Whitewater Development Corporation, or Capital Management Services, Inc.

This rule also amends the regulations on the salary of an Independent Counsel and the provisions for appointing, fixing the compensation of, and assigning

duties to such employees as the Independent Counsel deems necessary. These changes reflect the elimination of the "GS–18" rate under the General Schedule, 5 U.S.C. 5332(a), more closely align the regulation with the laws governing the civil service, and provide more flexibility in setting the salary of the Independent Counsel, subject to a specified maximum level.

EFFECTIVE DATE: January 31, 1994.

FOR FURTHER INFORMATION CONTACT: Carl Stern, Director, Office of Public Affairs, U.S. Department of Justice, Washington, DC 20530, (202) 616–2777.

SUPPLEMENTARY INFORMATION: This order pertains to a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not subject to Executive Order No. 12866.

List of Subjects in 28 CFR Parts 600 and 603

Authority delegations (Government agencies), Crime, Conflict of interests, Government employees.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509, 510, and 543, chapter VI of title 28 of the Code of Federal Regulations is amended as follows:

PART 600—GENERAL POWERS OF INDEPENDENT COUNSEL

1. The authority citation for part 600 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515, 543; Article II of the U.S. Constitution.

2. Section 600.1 is amended by revising paragraphs (b) and (c) to read as follows:

§ 600.1 Authorities and duties of an Independent Counsel.

* * * * *

(b) An Independent Counsel appointed under this chapter shall receive compensation at a rate not to exceed the annual or per diem rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the U.S. Code. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (b) of section 594 of title 28 of the U.S. Code.

(c) For the purposes of carrying out the duties of the Office of Independent Counsel, an Independent Counsel shall have the full power of the Attorney General to appoint (other than in the Senior Executive Service), fix the compensation and assign the duties of such employees as the Independent Counsel deems necessary. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (c) of section 595 of title 28 of the U.S. Code.

* * * * *

3. A new part 603 consisting of § 603.1 is added to read as follows:

PART 603—JURISDICTION OF THE INDEPENDENT COUNSEL: IN RE MADISON GUARANTY SAVINGS & LOAN ASSOCIATION

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 543.

§ 603.1 Jurisdiction of the Independent Counsel

(a) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate to the maximum extent authorized by part 600 of this chapter whether any individuals or entities have committed a violation of any federal criminal or civil law relating in any way to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with:

(1) Madison Guaranty Savings & Loan Association;

(2) Whitewater Development Corporation; or

(3) Capital Management Services.

(b) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal or civil law by any person or entity developed during the Independent Counsel's investigation referred to above, and connected with or arising out of that investigation.

(c) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate any violation of section 1826 of title 28 of the U.S. Code, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal law, in connection with any investigation of the matters described in paragraph (a) or (b) of this section.

(d) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to seek indictments and to prosecute, or to bring civil actions against, any persons or entities involved in any of the matters referred to in paragraph (a), (b), or (c) of this section who are reasonably believed to have committed a violation of any federal criminal or civil law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any federal offense.

Dated: January 31, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–2534 Filed 2–3–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–93–055]

Special Local Regulations for Marine Events; Virginia Beach Offshore Grand Prix; Atlantic Ocean, Rudee Inlet, Lake Rudee, Virginia Beach, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Virginia Beach Offshore Grand Prix held annually in the Atlantic Ocean off Virginia Beach. The effect of these regulations will be to restrict general navigation in the regulated area for the safety of spectators and participants. These regulations are needed to provide for the safety of life, limb, and property on the navigable waters during the event.

EFFECTIVE DATE: This rule is effective March 7, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking concerning this regulation in the **Federal Register** on September 7, 1993 (58 FR 47099). Interested persons were requested to submit comments. The 45-day comment period ended on October 21, 1993. The Coast Guard received no letters.

Drafting Information

The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Fifth Coast Guard District, and LT Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Background and Purpose

The Virginia Beach Offshore Grand Prix, sponsored by the Eastern Virginia

Offshore Racing Association is an annual event held on the Atlantic Ocean off of Virginia Beach. As part of the application, the sponsor requested that the Coast Guard provide control of spectator and commercial traffic within the regulated area.

Discussion of Regulation

The Eastern Virginia Offshore Racing Association annually sponsors the Virginia Beach Offshore Grand Prix. Since this is a regular, yearly event, the Coast Guard is developing a special local regulation. Specifically the Coast Guard will regulate the waterways surrounding the race course. The Virginia Beach Offshore Grand Prix race course has been marked and checked by Waterway Surveys & Engineering, Ltd. to insure accurate certification of race points and records. The course runs from Rudee Inlet at the southern end to approximately 75th Street at the northern end. The Start/Finish line is at 20th Street. Race boats will be pitted in the Southside Marina and Owl's Creek area. The course measures 11.0 Nautical miles (12.7 Statute miles). Waterway closures include the beach front and Rudee Inlet at the start of and throughout the race. To provide for safety of participants, spectators, and vessels transiting the area, the Coast Guard will restrict vessel movement in the regulated area during the race.

Regulatory Evaluation

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for several hours, one day a year, and the impact on routine navigation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small Entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). It is anticipated that the impact of this regulation on non-participating small entities will actually benefit their business due to the increase in local tourism. The Coast Guard will certify under 5 U.S.C. 605(b), that this regulation will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it is anticipated that this regulation will not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

This regulation has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket, and is available for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new § 100.520 is added to read as follows:

§ 100.520 Rudee Inlet, Lake Rudee, Atlantic Ocean, Virginia Beach, Virginia.

(a) *Definitions.* (1) Regulated area. The waters of Rudee Inlet and Lake Rudee including the Owl Creek Boat Ramp. The waters of the Atlantic Ocean enclosed by:

Latitude	*Longitude*
36°54'23.0" N	75°59'26.0" W
36°54'38.0" N	75°56'55.0" W
36°49'06.0" N	75°55'58.0" W
36°48'53.0" N	75°57'58.0" W

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander will be a commissioned, warrant, or petty officer who will be designated by the Commander, Group Hampton Roads.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a)(1) of these regulations but may not block a navigable channel.

(c) *Effective period.* This section is effective during, and one hour before any scheduled event starts. The Commander, Fifth Coast Guard District will publish a notice in the **Federal Register** and the Fifth Coast Guard District Local Notice to Mariners that announces the times and dates that this section is in effect.

Dated: January 13, 1994.

W.T. Leland,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 94–2604 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR PART 161

[CGD09–93–037]

Temporary Speed Limits for the St. Marys River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander of the Ninth Coast Guard District is making a temporary amendment to the speed limits for the St. Marys River during the 1993–94 icebreaking season. This amendment reduces the speed limit by 2 miles per hour through that part of the system, between Munuscong Lake Lighted Buoy 8 and Lake Nicolet Light 80 upbound and between Lake Nicolet Light 80 and Munuscong Lake Light 9 downbound. These temporary changes to the speed regulations are a precautionary measure to minimize any possible damage to the environment due to movement of large commercial vessels through the ice.

EFFECTIVE DATE: This regulation is effective from December 27, 1993 through April 15, 1994.

FOR FURTHER INFORMATION CONTACT: Captain Roderick A. Schultz, U.S. Coast Guard, Chief, Ninth Coast Guard District Aids to Navigation Branch, room 2083, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay in the effective date would be contrary to the public interest because immediate action is necessary to prevent possible damage to the environment.

Discussion of Proposed Regulations

In a letter received on February 26, 1993, the Michigan Department of Natural Resources advised the Commander of the Ninth Coast Guard District of concerns over the environmental impact of ship transits through the St. Marys River during the period of March 21 to April 1. April 1 is the nominal date for the opening of the locks at Sault St. Marie, which allows large commercial shipping access to the St Marys River from Lake Superior. In accordance with an agreement reached on June 29, 1993 with the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources, the Commander of the Ninth Coast Guard District is making this temporary change to the speed regulations during periods when ice breaking is being conducted in the vicinity of Neebish Island, St. Mary's River, Michigan, as a precautionary measure to minimize any possible damage to the environment. The speed limit is being reduced by 2 statute miles per hour in the area between Munuscong Lake Lighted Buoy 8 and Lake Nicolet Light 80, upbound, and between Lake Nicolet Lighted Buoy 80 and Munuscong Lake Light 9, downbound. The Light 9 checkpoint has been added to extend the reduced speed limit area past Winter Point, thereby protecting the sensitive environment between Winter Point and Light 9. Speed limits apply to the average speed between established reporting points.

Drafting Information

The drafter of this regulation is Captain Roderick A. Schultz, U.S. Coast Guard, Chief, Ninth Coast Guard District Aids to Navigation Branch.

Federalism Implications

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

Environment

A recent environmental impact study by the United States Army Corps of Engineers indicated that March 21 is the optimal opening date. [see U.S. Army Corps of Engineers Draft Environmental Impact Statement, Opening Operations of the Lock Facilities on March 21 (February 1993), Supplement III to the Final Environmental Impact Statement, Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan (July 1977)]. The same study by the Corps of Engineers indicates that there is no significant impact on fish populations due to movement of large commercial vessels through the ice. However, the Michigan Department of Natural Resources asserts that there may be such an impact during the early period of March 21 to April 1.

The Ninth Coast Guard District has adopted the U.S. Army Corps of Engineers EIS, EIS Supplements, and EIS studies on Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan. In addition, the Coast Guard is preparing a supplement for the 1974 Ninth Coast Guard District EIS regarding icebreaking activity on the Great Lakes.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Economic and Regulatory Evaluation

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation regulatory policies and procedures (44 CFR 11034, 11040; February 26, 1979). The Coast Guard has determined that a regulatory evaluation is unnecessary because of the minimal impact expected from this regulation.

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

Regulations

In consideration of the foregoing, the Coast Guard temporarily amends Part 161 of Title 33, Code of Federal Regulations, as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for 33 CFR Part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Section 161.880 is temporarily revised to read as follows:

§ 161.880 Maximum Speed Limits.

The following speed limits indicate the average speed over the ground between reporting points:

The speed limit between	Speed limit	
	Miles/hr	Knots
De Tour Reef Light and Sweets Point Light	14	12.2
Round Island Light and Point Aux Frenes Light 21	14	12.2
Munuscong Lake Lighted Buoy 8 and Everns Point	10	8.7
Everns Point and Reed Point	7	6.0
Reed Point and Lake Nicolet Lighted Buoy 62	8	7.0
Lake Nicolet Lighted Buoy 62 and Lake Nicolet Light 80	10	8.7
Lake Nicolet Lighted Buoy 80 and Munuscong Lake Light 9 (downbound, West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Winter Point (West Neebish Channel)	8	7.0
Lake Nicolet Light 80 and Six Mile Point Range Rear Light	10	8.7
Six Mile Point Range Rear Light and lower limit of the St. Marys Falls Canal:		
Upbound	8	7
Downbound	10	8.7
Upper limit of the St. Marys Falls Canal and Point Aux Pins Main Light	12	10.4

Dated: December 27, 1993.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 94–2605 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

COTP Pittsburgh 94–003

RIN 2115–AA97

Safety Zone; Allegheny River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Allegheny River. This regulation is

needed to control vessel traffic in the regulated area due to hazards posed by severe icing along the entire length of this river. This regulation will restrict general navigation in the regulated area for the safety of vessel traffic.

EFFECTIVE DATE: This regulation is effective at 4 p.m. on January 18, 1994 and will terminate at 4 p.m. on February 15, 1994, unless terminated at an earlier date by the Captain of the Port, Pittsburgh, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Lt. John Meehan, Port Operations Officer, Captain of the Port, Pittsburgh, Pennsylvania at (412) 644–5808.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are Lt. John Meehan, Project Officer, Marine Safety Office, Pittsburgh, Pennsylvania and LCDR A.O. Denny, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, extremely cold weather has blanketed the upper Ohio Valley during the first two weeks of January, 1994. The Allegheny River, the northernmost navigable river in the valley's watershed, has quickly frozen to ice thicknesses of up to one foot in several areas. Vessels attempting to transit this river recently have reported problems in maintaining steerage and in making way on the river's ice clogged channels. The severe icing of the Allegheny River and the subsequent navigation hazards posed by the ice developed rapidly and were unexpected, leaving insufficient time to publish a notice of proposed rulemaking. The Coast Guard deems it to be in the public's best interest to issue a regulation without waiting for a comment period, as immediate implementation of navigation restrictions is needed to ensure the safety of vessels transitting the area.

Background and Purpose

The upper Ohio River Valley is experiencing one of the coldest winters on record. Unusually high precipitation levels and record low temperatures have led to significant ice accumulations along the region's navigable waterways. The icing problem is especially severe along the Allegheny River, where ice thicknesses of up to one foot have been reported. Vessels attempting to transit the Allegheny River have experienced difficulty in maintaining steerage and in making way on this river's ice clogged channels. By January 17, 1994, the Allegheny River's navigability had deteriorated (due to ice) to the point where several vessel operators elected not to move tank barge cargoes on this river. Since temperatures in this region are not expected to moderate in the short term, Captain of the Port Pittsburgh is establishing a safety zone on the Allegheny river to protect vessels from the risks posed by the river's ice clogged channels. Commencing at 4 p.m. on January 18, 1994, vessel traffic will not be permitted to transit any navigable portion of the Allegheny River unless specifically authorized by the Captain of the Port Pittsburgh. Vessels intending to transit the Allegheny River may request Captain of the Port authorization to proceed by calling Marine Safety Office Pittsburgh at (412) 644–5808 or Coast Guard Ohio Valley via VHF marine band radio Channel 13 (156.650 MHz) at least 24 hours prior to the vessel's scheduled arrival time at Allegheny River mile 0.0. The Captain of the Port Pittsburgh will authorize Allegheny River transits on a case-by-case basis after considering the vessel's size (horsepower), tow composition, and destination on the river. This safety zone will remain in effect until 4 p.m. on February 15, 1994, unless terminated at an earlier date by the Captain of the Port, Pittsburgh, Pennsylvania.

Regulatory Evaluation

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements. A full regulatory analysis is unnecessary because the Coast Guard expects the impact of this regulation to be minimal due to the relatively short duration of vessel traffic restrictions and the relative infrequency of commercial vessel transits along this navigable waterway.

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation as an action required to protect public safety.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping, Security measures, Waterways.

Temporary Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A temporary section 165.T02–005 is added, to read as follows:

§ 165.T02–005 Safety Zone: Allegheny River.

(a) *Location.* The Allegheny River between mile 0.0 and mile 72.0 is established as a safety zone.

(b) *Effective dates.* This regulation is effective at 4 p.m. on January 18, 1994 and will terminate at 4 p.m. on February 15, 1994, unless terminated at an earlier date by the Captain of the Port, Pittsburgh, Pennsylvania.

(c) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. Vessel operators requesting authorization to enter this safety zone may do so by contacting Coast Guard Marine Safety Office Pittsburgh at (412)644–5808 or Coast Guard Group Ohio Valley via VHF marine band radio Channel 13 (156.650 MHz) at least 24 hours prior to arriving at Allegheny River mile 0.0.

Dated: January 18, 1994.

M.W. Brown,

Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh, Pennsylvania.

[FR Doc. 94–2603 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 233

Increasing the Amounts of the Rewards and Adding Money Laundering to the List of Offenses for Which Rewards May Be Paid for Information

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In 1993, the Postal Service revised its reward policy by increasing the reward amounts and by adding money laundering to the list of offenses for which rewards may be paid for information and services leading to the arrest and conviction of persons committing postal crimes. Consequently, this rule amends the regulations to reflect the revised reward policy.

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: H.J. Bauman, (202) 268–4415.

SUPPLEMENTARY INFORMATION: The Postal Service offers rewards for information and services leading to the arrest and conviction of perpetrators of the following crimes: (1) Murder or manslaughter of a postal employee; (2) assault on a postal employee; (3) robbery or attempted robbery of any custodian of postal money or property; (4) burglary of a post office; (5) theft, possession, destruction, or obstruction of mail; (6) postage or meter tampering; (7) offenses involving money orders; (8) mailing bombs or explosives; (9) mailing poisons, controlled substances, or hazardous materials; (10) using the mails for child pornography; and (11) using the mails for money laundering.

Postal Service regulations concerning these rewards are published in title 39 of the Code of Federal Regulations (CFR) as a note following § 233.2(b). Since the Postal Service has decided to increase the amounts of the rewards, it is necessary to amend the CFR to reflect the revised Postal Service policy. In addition, the offense of money laundering (i.e., mailing or causing to be mailed any money which has been obtained illegally), has been added to the reward list.

In summary, § 233.2 is amended by: (1) Revising paragraph (b) to substitute "Poster 296" for "Notice 96"; (2) adding paragraph (b)(1)(x) to add money laundering to the list of offenses; and (3) revising the note following paragraph (b)(2) to increase the reward amounts.

List of Subjects in 39 CFR Part 233

Crime, Law enforcement, Postal Service.

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

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

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

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

2. Section 233.2 is amended by revising the introductory text of paragraph (b)(1), adding paragraph (b)(1)(x) and revising the Note after paragraph (b)(2) to read as follows:

§ 233.2 Circulars and rewards.

* * * * *

(b) *Rewards* (1) Rewards will be paid in the amounts and under the conditions stated in Poster 296, *Notice of Reward*, for the arrest and conviction of persons for the following postal offenses:

* * * * *

(x) Mailing or causing to be mailed any money which has been obtained illegally.

(2) * * *

Note: The text of Poster 296, referred to in paragraph (b)(1) of this section, reads as follows:

The United States Postal Service offers a reward up to the amounts shown for information and services leading to the arrest and conviction of any person for the following offenses:

Murder or Manslaughter, $100,000. The unlawful killing of any officer or employee of the Postal Service while engaged in or on account of the performance of their official duties.

Assault on Postal Employees, $15,000. Forcibly assaulting any officer or employee of the Postal Service while engaged in or on account of the performance of their official duties.

Bombs or Explosives, $50,000. Mailing or causing to be mailed any bombs or explosives which may kill or harm another, or injure the mails or other property, or the placing of any bomb or explosive in a postal facility, vehicle, depository or receptacle established, approved or designated by the Postmaster General for the receipt of mail.

Postage or Meter Tampering, $50,000. The unlawful use, reuse, or forgery of postage stamps, postage meter stamps, permit imprints or other postage; or the use, sale or possession with intent to use or sell, any used, forged or counterfeited postage stamps or other postage.

Robbery, $25,000. Robbery or attempted robbery of any custodian of any mail, or money or other property of the United States under the control and jurisdiction of the United States Postal Service.

Burglary of Post Office, $10,000. Breaking into, or attempting to break into a post office, station, branch, or a building used wholly or partially as a post office with intent to commit a larceny or other depredation in that part used as a post office.

Money Laundering, $10,000. Mailing or causing to be mailed any money which has been illegally obtained.

Offenses Involving Postal Money Orders, $10,000. Theft or possession of stolen money orders or any Postal Service equipment used to imprint money orders; or altering, counterfeiting, forging, unlawful uttering, or passing of postal money orders.

Theft, Possession, Destruction, or Obstruction of Mail, $10,000. Theft or attempted theft of any mail, or the contents thereof, or the theft of money or any other property of the United States under the custody and control of the United States Postal Service from any custodian, postal vehicle, railroad depot, airport, or other transfer point, post office or station or receptacle or depository established, approved, or designated by the Postmaster General for the receipt of mail; or destroying, obstructing, or retarding the passage of mail, or any carrier or conveyance carrying the mail.

Child Pornography, $10,000. The mailing or receiving through the mail of any visual depiction involving the use of a minor engaging in sexually explicit conduct.

Poison, Controlled Dangerous Substances, Hazardous Materials, Illegal Drugs, or Cash Proceeds from Illegal Drugs, $10,000. Mailing or causing to be mailed any poison, controlled substances, hazardous materials, illegal drugs, or the proceeds from the sale of illegal drugs.

Related Offenses

The United States Postal Service also offers rewards as stated above for information and services leading to the arrest and conviction of any person: (1) For being an accessory to any of the above crimes; (2) for receiving or having unlawful possession of any mail, money or property secured through the above crimes; and (3) for conspiracy to commit any of the above crimes.

General Provisions

1. The Postal Inspection Service investigates the above described crimes. Information concerning the violations, requests for applications for rewards, and written claims for rewards should be furnished to the nearest Postal Inspector. The written claim for reward payment must be submitted within six months from the date of conviction of the offender, or the date of formally deferred prosecution or the date of the offender's death, if killed in committing a crime or resisting lawful arrest for one of the above offenses.

2. The amount of any reward will be based on the significance of services rendered, character of the offender, risks and hazards involved, time spent, and expenses incurred. Amounts of rewards shown above are the maximum amounts which will be paid.

3. The term "custodian" as used herein includes any person having lawful charge, control, or custody of any mail matter, or any money or other property of the United States under the control and jurisdiction of the United States Postal Service.

4. The Postal Service reserves the right to reject a claim for reward where there has been collusion, criminal involvement, or improper methods have been used to effect an arrest or to secure a conviction. It has the right to allow only one reward when several persons were convicted of the same offense, or one person was convicted of several of the above offenses.

5. Other rewards not specifically referred to in this notice may be offered upon the approval of the Chief Postal Inspection (39 U.S.C. 404 (a)(8).

(c) * * *

Stanley F. Mires,

Chief Counsel, Legislative Division.

[FR Doc. 94–2064 Filed 2–3–94; 8:45 am]

BILLING CODE 7710–12

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA15–1–5995; A–1-FRL–4831–8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia–Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. This SIP revision was submitted by the Commonwealth to satisfy the Federal mandate of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for approving is set forth in this document; additional information is available at the address indicated. This action is being taken in accordance with the provisions of the CAA.

EFFECTIVE DATE: This action will become effective April 5, 1994, unless notice is received on or before March 7, 1994, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Virginia Department of Environmental Quality, 629 E. Main Street, Richmond Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 597–9781.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA will require regulation of many small businesses so that areas may attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of Title V of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and state roles in meeting the new statutory provisions and as a tool to provide further guidance to the states on submitting acceptable SIP revisions.

On November 10, 1992, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of a plan for establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. In order to gain full approval, the Commonwealth's submittal must provide for each of the following program elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding, and schedule of implementation for the three PROGRAM components.

Under sections 10.1–1323 through 10.1–1326 of the Code of Virginia, the Department of Air Pollution Control, now the Department of Environmental Quality (VA DEQ), is authorized to create and administer the Small Business Stationary Source Technical and Environmental Compliance Assistance Program. This law authorizes VA DEQ to create and administer the SBAP. This law also creates an Office of Small Business Ombudsman and a Small Business Environmental Compliance Advisory Board, and defines source eligibility for the SBAP.

II. Evaluation of SIP Revision

Section 507(a) of the CAA sets forth seven requirements that the Commonwealth must meet to have an approvable SBAP. Four of these requirements are discussed in the first section and the requirement for the establishment of an Ombudsman in the second section. Discussion of the remaining two requirements follows the third section.

1. Small Business Assistance Program

The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the CAA. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

Virginia has met these first two requirements by establishing a SBAP, located in the VA DEQ Office of Permit Assistance, with the responsibility of serving as a clearinghouse for information related to compliance methods and control technologies, pollution prevention and accidental release prevention and detection. The Virginia SBAP will disseminate

information on compliance which is easily understandable to a nontechnical audience as well as handle inquiries on specific methods for achieving compliance with state and Federal regulations.

The information dissemination will be both proactive and reactive. VA DEQ Air Division has presented a series of seminars throughout Virginia to explain applicable requirements to small businesses and interested citizens. Another series of seminars is being planned, with the assistance of Virginia's Department of Economic Development. The VA DEQ Air Division will also receive seminar assistance from the Waste Management Division and the Emergency Services Division for pollution prevention and accidental release prevention, respectively. The SBAP manager and staff members will develop public service announcements (PSAs) and information packages of print material, addressing all topics germane to the SBAP, including compliance, pollution prevention, accidental release prevention, legal rights under the CAA, permitting assistance, notification of rights, audits, and source modification. The PSAs and mailings of print material will begin in November, 1994. For the reactive component of the SBAP, a toll-free number will be installed by October, 1994. Through outreach techniques, the SBAP staff will inform small business stationary sources of their obligations under the CAA.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the CAA in a timely and efficient manner, and the fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the CAA in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the CAA. Virginia has met these requirements through the SBAP. The staff of the SBAP will compile a list of technical referrals who will assist them in responding to specific inquiries. The VA DEQ's Air Division, Office of Compliance and Enforcement (OCE) and regional offices currently offer compliance assistance to sources in determining applicable requirements of the CAA. The OCE will serve as technical experts available for referral by the SBAP in identifying applicable rules, determining necessity of a permit, and identifying alternatives for achieving compliance with state and local regulations.

2. Ombudsman Office

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. The Code of Virginia, section 10.1–1324 authorizes the creation of the Ombudsman's office. In VA DEQ, the Director of the Office of Permit Assistance serves as Ombudsman. The Ombudsman is appointed by the DEQ's Director and reports directly to him or her, and the SBAP manager reports to the Ombudsman. Additionally, each of Virginia's seven air quality control regional offices will have an appointed liaison.

3. Compliance Advisory Board

Section 507(e) of the CAA requires the state to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the state legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. Virginia has established a Compliance Advisory Board pursuant to the Code of Virginia, section 10.1–1325. It is comprised of seven members who are appointed for four-year terms, starting on July 31, 1993. The makeup of the board is prescribed as is required by section 507(e). Members of the board will serve without pay, and administrative support for the Board will be funded through the ombudsman's office.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (A) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (B) to review and assure that information for small business stationary sources is easily understandable; (C) to develop and disseminate the reports and advisory opinions made through the SBAP; and (D) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act. (Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three statutes. However, since state agencies are not required to comply with them, EPA believes that the state program must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.) The duties and responsibilities of Virginia's Compliance Advisory Board under section 10.1–1326 of the Code of Virginia indicate that it will be responsible for all four of the activities listed above.

The sixth requirement of CAA section 507(a) is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the Commonwealth, for providing audits of the operations of such sources to determine compliance with the Act. Virginia's Ombudsman and Compliance Advisory Board will develop procedures for referring sources to qualified auditors. The procedures will determine how auditors will qualify, what the cost will be, the format and content of the audit report, and Virginia's actions in the event of a violation discovered during an audit. The audit procedures will be completed by July 31, 1994.

The seventh requirement of CAA section 507(a) is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practices or compliance methods. Virginia has committed to develop procedures for consideration of requests from a source for modification of work practices. The source modification procedures will be completed by July 31, 1994.

4. Source Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals;

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

Code of Virginia section 10.1–1323 duplicates the language of CAA section 507(c)(1) in defining eligible stationary sources. It also provides for the State Air Pollution Control Board to hear petitions for eligibility and eligibility exclusions. The Board will consult with both EPA and the Small Business Administration regarding exclusions.

The Ombudsman and Compliance Advisory Board will be responsible for developing eligibility determination procedures.

III. Summary of SIP Revision

The Commonwealth of Virginia has submitted a SIP revision providing for each of the program elements required by CAA section 507. As previously stated, the authority to implement the SBAP has been delegated to the Department of Environmental Quality. Program implementation will begin no later than November 15, 1994. The Director of the Department of Environmental Quality will appoint the Ombudsman and hire the three staff dedicated to implementing the program at the beginning of the Commonwealth's 1993–1994 fiscal year. The Code of Virginia, section 10.1–1325 authorizes the creation of a Compliance Advisory Board to periodically review the effectiveness of the SBAP. All members will be appointed for four year terms, starting no later than July 31, 1993. In this action, EPA is approving the SIP revision submittal by the Commonwealth of Virginia. Accordingly, § 52.2460 is added to 40 CFR part 52, subpart VV–Virginia to reflect EPA's approval action and the fact that it is considered part of the Virginia SIP.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 5, 1994, unless, by March 7, 1994, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on April 5, 1994.

Final Action

EPA is approving Virginia's plan for the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. Accordingly, 40 CFR 52.2460 is added to reflect EPA's approval action. The Agency has reviewed this request for revision of the federally-approved state implementation plan for conformance with the Clean Air Act, including sections 507 and section 110(a)(2)(E).

Nothing in 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 state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

In this action, EPA is approving a state program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

This action to approve the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program in Virginia has been classified as a Table 2 action for signature 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. On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request is still applicable under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action to approve the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program in Virginia must be filed in the United States Court of Appeals for the appropriate circuit by April 5, 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Small business assistance program.

Dated: November 10, 1993.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

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 VV—Virginia

2. Subpart VV is amended by adding § 52.2460 to read as follows:

§ 52.2460 Small business stationary source technical and environmental compliance assistance program.

On November 10, 1992, the Executive Director of the Virginia Department of Air Pollution Control submitted a plan for the establishment and implementation of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program as a State Implementation Plan revision, as required by title V of the Clean Air Act. EPA approved the Small Business Stationary Source Technical and Environmental Compliance Assistance Program on February 4, 1994, and made it a part of the Virginia SIP. As with all components of the SIP, Virginia must implement the program as submitted and approved by EPA.

[FR Doc. 94–2282 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[AL15–1–6050; FRL–4829–4]

Approval and Promulgation of Implementation Plans Alabama: Approval of Revisions to Alabama State Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the particulate emission regulations of the Alabama State Implementation Plan (SIP) submitted by the State of Alabama through the Alabama Department of Environmental Management on September 23, 1985. The revisions include specific regulations for coke ovens for Gulf States Steel Corporation, formerly Gadsden Steel Company, formerly Republic Steel Corporation. These regulations were revised to ensure that the National Ambient Air Quality Standards (NAAQS) for particulate matter will continue to be maintained in Etowah County, Alabama.

EFFECTIVE DATE: This action will be effective April 5, 1994, unless notice is received by March 7, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the State submittal are available for public review at the following locations:

EPA, Attn: Jerry Kurtzweg, ANR 443, Environmental Protection Agency, 401 M Street SW., Washington DC 20460;

Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, United States Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia, 30365.

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama, 36109.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, United States Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia, 30365, (404) 347–2864.

SUPPLEMENTARY INFORMATION: On September 23, 1985, the State of Alabama through the Alabama Department of Environmental Management submitted revisions to the Alabama SIP to address air emissions from steel mills located in Etowah County. The air quality with regard to particulate matter in Etowah County, Alabama, is predominantly influenced by the operation of Gulf States Steel Corporation. Therefore, mitigation measures concentrate on those processes peculiar to the making of steel. The following is a detailed summary of the revisions to the Alabama SIP which EPA is approving in this action.

The State's original implementation plan for the control of particulate emissions from steel mills contained two broadly applicable regulations. Visible emissions were regulated by section 335–3–4-.01 (formerly 4.1) and the amount of particulate mass emitted was regulated by the general process weight provisions of section 335–3–4-.04 (formerly 4.4). In general, those regulations adequately addressed particulate emissions from stacks, but could not be effectively applied to control process fugitive emissions. These regulations were difficult to enforce because there was no easy or accurate way to measure actual emissions.

In order to remedy the problems associated with these original regulations, the State adopted source-specific regulations governing the distinctive emission processes associated with coke making. The coke oven regulations were adopted by the Alabama Air Pollution Control Commission on June 12, 1974. The regulations were submitted to EPA for approval as a revision to the Alabama SIP on June 20, 1974. EPA approved the regulations on August 28, 1975 (40 FR 39503). A summary of these coke oven emission regulations is provided in this notice in order to provide an understanding of the control strategy pertinent to this notice. Many of these regulations remain an integral part of the strategy. The regulations were originally codified under section 4.9 but have been recodified as follows.

Section 335–3–4-.09(2)—This section requires that all reasonable measures be applied to prevent emissions from the unloading and transfer of coal and coke.

Section 335–3–4–.09(3), Charging—This section limits charging emissions to less than 20 percent except for 3 minutes in any hour for batteries with less than 70 ovens.

Section 335–3–4–.09(4), Pushing—This section forbids any visible emissions greater that 40 percent during the pushing cycle except for one push per hour (EPA approved this regulation April 4, 1979 (44 FR 20079)).

Section 335–3–4–.09(5)—This section limits visible emissions to 10 percent at the offtake piping and no more than 5 percent at the charging lids.

Section 335–3–4–.09(6), Coke Oven Doors—This section provides that there shall be no visible emissions from more than 15 percent of the doors of the battery.

Section 335–3–4–.09(7)—This section describes the general maintenance requirements for coke ovens.

Section 335–3–4–.09(8), Combustion Stacks—This section provides that there shall be no visible emissions of an opacity greater than 20 percent from any stack except for 3 minutes in any consecutive 60 minutes.

Section 335–3–4–.09(9), Quenching—This section requires that quench towers be provided with properly operating baffles and provides for water quality guidelines.

EPA's analysis of emission reductions needed to achieve attainment of the particulate matter NAAQS resulted in a finding that the proposed pushing regulation (335–3–4–.09(4)) was inadequate. EPA, therefore, took no official action on that regulation on August 28, 1975, when the other regulations were approved, pending the conclusion of additional studies. Consequently, the State's process weight and general opacity regulations remained the only federally approved regulation for coke oven pushing emissions. On April 4, 1979, EPA approved coke oven plan revisions submitted on July 14, 1978, to attain the national standards for particulate matter. These regulations were later relaxed to the 1975 version.

Neither of the two regulatory approaches heretofore described contained specific regulations to limit fugitive particulate emissions from road dust, parking lots, storage piles, etc. However, these nontraditional fugitive emissions are now subject to limitations by permit condition and by the terms of today's final rule.

On March 3, 1978, in accordance with section 107(d) of the CAA, EPA designated the area surrounding the Gulf States Steel Corporation facility in Etowah County, Alabama, as nonattainment for total suspended particulates (TSP). Gulf States Steel Corporation remained the dominant major point source contributing to the particulate nonattainment problem in Etowah County.

Section 172 of the Clean Air Act (CAA) requires that plan revisions assuring the attainment of the NAAQS for particulate matter are to provide for the implementation of reasonably available control technology (RACT) as expeditiously as practicable. In response to the section 107(d) nonattainment designation and call for a particulate SIP revision for Etowah and Jefferson

Counties, Alabama revised its coke oven pushing and charging regulations to require a RACT level of control. These regulations were directed specifically to Jefferson and Etowah Counties and were federally approved on April 4, 1979. These regulations, however, were never implemented due to legal challenges to the section 107 redesignation process. On procedural grounds, Republic Steel and U.S. Steel challenged the validity of EPA's March 3, 1978, designation of portions of Jefferson and Etowah Counties as nonattainment areas for TSP.

On May 3, 1979, the 5th Circuit Court of Appeals (now the Eleventh Circuit Court of Appeals) in *Republic Steel vs. EPA* and *U.S. Steel vs. EPA* found that EPA had not adequately complied with the requirements of the Administrative Procedure Act in its nonattainment designation action, and directed EPA to initiate the designation process again. On June 10, 1980, EPA again designated Etowah County as primary nonattainment for TSP and directed the State to submit a SIP revision. U.S. Steel and Republic Steel did not appeal this designation of nonattainment by EPA.

In an order issued July 2, 1979, the Eleventh Circuit Court of Appeals stayed the effective date of EPA's approval of the 1978 coke pushing and charging regulations until the nonattainment designation challenge was resolved. In a second order issued October 23, 1979, further proceedings in the case were stayed pending EPA's final action on any new SIP revision that might be required after finalization of the nonattainment boundaries in Etowah and Jefferson Counties. As part of the basis of the second stay, EPA agreed not to enforce the 1978 coke pushing regulations pending finalization of the nonattainment boundaries and EPA's final action on any new SIP revision that may be required. Thus, neither EPA nor the State enforced the 1978 coke oven pushing and charging regulations.

In November 1984, the Eleventh Circuit Court of Appeals notified the Department of Justice and counsel for U.S. Steel and Gadsden Steel that the Court would not carry this case on its docket indefinitely and directed counsel to confer and dispose of the case. U.S. Steel and Gadsden Steel Company (formerly Republic Steel) requested that EPA's action in adopting 1978 coke oven regulations be vacated or, alternatively, that the July 1979 stay of enforcement of these regulations be continued. EPA and the Justice Department disagreed with the two steel companies, pointing out that the petition for review lacked "good cause" in light of EPA's second (and unchallenged) designation of parts of Jefferson and Etowah Counties as nonattainment areas for total suspended particulate matter (TSP). EPA and the Justice Department reasoned that the 1978 Alabama-submitted coke oven regulations (which represented Reasonably Available Control Technology) were needed due to the affected area's nonattainment status. The parties failed to reach an agreement and filed legal briefs and memoranda with the court.

On May 14, 1985, the Eleventh Circuit Court dismissed the steel companies' petitions for review without prejudice. The dismissal of the case dissolved the July 1979 agreement by EPA to stay enforcement of the 1978 Alabama coke oven regulations. However, because of the imminent approval status of this SIP revision, EPA has continued to refrain from enforcement of the 1978 regulations. Regulations in this SIP revision will supersede the 1978 coke oven regulations in Etowah County.

A reduction in particulate emission levels has occurred at the Gulf States Steel facility due to the enforcement of regulations applying to steel mills adopted in 1974, along with a fugitive emissions control program more recently implemented by Gulf States Steel Corporation. To insure that the reductions associated with the fugitive emissions control program will continue in the future, ADEM adopted regulations requiring Gulf States Steel Corporation to continue efforts to reduce fugitive emissions.

ADEM submitted SIP revisions on June 19, 1985, September 3, 1985, and September 15, 1985, modifying the particulate control strategy for Etowah County. The State requested that Etowah County be redesignated to attainment for TSP. EPA has more recently adopted a particulate matter standard based on particles with an aerodynamic diameter of less than 10 microns (PM10). Under the 1990 Amendments, Etowah County does not have to redesignate to attainment for TSP, and therefore, the EPA is not acting on the request to redesignate.

The following is a list of the revisions made to Chapter 4 to control particulate emissions. These revisions are being approved in today's action.

335–3–4–.17(1) Visible Emissions from roof monitors or other openings in the basic oxygen furnace (BOF) building, other than water mist or vapor, shall not exceed a shade or density greater than twenty percent (20%) opacity as determined on a three (3) minute rolling average. Compliance shall be determined by using the procedures specified at 40 CFR part 60, appendix A, Method 9 excluding section 2.5.

335–3–4–.17(2) All paved roads shall be vacuum swept or flushed of surface material every third consecutive day. The vacuum sweeper shall have a minimum blower capacity of 12,000 cfm and the flushing machine shall dispense water at the rate of 0.32 gal/yd.^{2}

335–3–4–.17(3) Paved parking areas shall be vacuum swept or flushed of surface material every calendar quarter. The vacuum sweeper shall have a minimum blower capacity of 12,000 cfm and the flushing machine shall dispense water at the rate of 0.32 gal/yd.^{2}

335–3–4–.17(4) Paved road or area flushing specified in sections 335–3–4–.17(2) and 335–3–4–.17(3) is not required when the temperature is below 32 °F. Paved road or area cleaning is not required when precipitation during the previous 24-hour period has exceeded 0.01 inches.

335–3–4–.17(5) Unpaved roads, traffic areas in the slag storage area, and traffic areas in other material storage areas shall be treated with petroleum resin, asphalt emulsion, or equivalent dust suppressant on a quarterly or more frequent basis as determined by the Director.

335–3–4–.17(6) Unpaved parking lots shall be treated with petroleum, resin, asphalt emulsion, or equivalent dust suppressant on a semi-annual basis.

335–3–4–.17(7) The petroleum resin or asphalt emulsion dust suppressant required in sections 335–3–4–.17(5) and 335–3–4–.17(6) shall be applied at a dilution ratio of 20% for the initial three applications and 12% for subsequent applications. The suppressant shall be applied at the rate of 0.75 gal/yd^2 of diluted solution. Other dust suppressants must be applied at an equivalent dilution ratio and application rate as determined by the Director.

335–3–4–.17(8) The source shall maintain at its plant premises, and make available for inspection, records documenting each occasion on which paved areas are cleaned in accordance with sections 335–3–4–.17(2) and 335–3–4–.17(3), and any occasion on which such paved areas are not cleaned according to the required schedule, including any justification for failure to meet the required schedule, such as equipment breakdown or inclement weather conditions. The company shall also maintain, and make available for inspection, records documenting the frequency and amount of applications required by sections 335–3–4–.17(5) and 335–3–4–.17(6). These records shall be

maintained for a minimum of two years following the date of the recorded information.

335–3–4–.17(9) The source shall, within 30 days of approval of this section, notify the Department of a designated reclaim area on the plant property and a designated paved road at its premises to be used to transport molten slag from the basic oxygen furnace shop to the reclaim area. These designations shall not be changed without the written approval of the Director.

These regulations have resulted in an estimated particulate emission reduction of 1400 tons/year and have allowed Etowah County to demonstrate measured attainment of the NAAQS for PM10. EPA has concluded that the revisions are sufficient to allow the area to continue to attain and maintain the NAAQS for PM10. The approval of these regulations is accompanied by the *caveat* that the levels of control specified for blast furnace casthouses and coke batteries do not, in the Agency's opinion, represent RACT and would not necessarily be sufficient for nonattainment areas to achieve compliance with the NAAQS. It should be noted that there are no sources affected by this action which receive stack height credits above Good Engineering Practice (GEP) or any other dispersion technique.

Final Action

EPA is approving the aforementioned revisions to the Alabama SIP. These revisions are consistent with EPA policy and guidance. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective April 5, 1994. However, if notice is received by March 7, 1994 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 5, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607 (b)(2).)

This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for table 2 and table 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. 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.

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

SIP approvals under section 110 and subchapter I, part D of the 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 EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 17, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 B—Alabama

2. Section 52.50 is amended by adding paragraph (c)(63) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(63) Provisions for coke ovens were submitted by the Alabama Department of Environmental Management on September 25, 1985.

(i) Incorporation by reference

(A) Alabama Department of Environmental Management Administrative Code, Chapter 335–3–4–.17, Steel Mills Located in Etowah County, adopted September 18, 1985.

(ii) Other material.

(A) None.

* * * * *

[FR Doc. 94–2520 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[OH48–1–6051; FRL–4816–1]

Approval of Maintenance Plan and Designation of Areas for Air Quality Planning Purposes; OH

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a redesignation request and maintenance plan for Cuyahoga County, Ohio as a revision to Ohio's State Implementation Plan (SIP) for carbon monoxide.

The revision is based on a request from the State of Ohio to redesignate this area, and approve its maintenance plan, and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This final rulemaking becomes effective on March 7, 1994.

ADDRESSES: William Jones, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Region 5, Chicago, Illinois 60604, (312) 886–6058.

Copies of the redesignation request, public comments on the proposed rule, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone William Jones at (312) 886–6058, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Region 5, Chicago, Illinois 60604.

A copy of this redesignation is available for inspection: Jerry Kurtzweg (ANR–443), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William Jones at (312) 886–6058.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the pre-amended Clean Air Act (CAA), the United States Environmental Protection Agency (USEPA) promulgated the carbon monoxide (CO) attainment status for each area of every State. For Ohio, Cuyahoga County was designated as a nonattainment area for CO, see 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law No. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Pursuant to section 107(d)(1)(C) of the CAA, Cuyahoga County retained its designation of nonattainment for CO by operation of law, see 56 FR 56694 (November 6, 1991). At the same time the area was classified as a moderate CO nonattainment area based on a design value of 10.1 parts per million.

The Ohio Environmental Protection Agency requested that Cuyahoga County be redesignated to attainment in a letter dated October 16, 1992, and received by USEPA on October 21, 1992. On July 12, 1993 (58 FR 37453) USEPA proposed to approve Ohio's requested redesignation. The CO nonattainment area at issue consists of Cuyahoga County. The State of Ohio has met all of the CAA requirements for redesignation pursuant to section 107(d)(3)(E).

The State provided monitoring, modeling and emissions data to support its redesignation request. The 1992 CO attainment emissions inventory totals in tons per day are 98.55, 81.25, and 67.17, respectively, for the point, area, and mobile sources. The State relied on the existence of an approved Inspection and Maintenance (I/M) program as part of its maintenance demonstration.

The State of Ohio also provided the following schedule for implementing the contingency plan and committed to retain the existing monitoring network for carbon monoxide in the Cleveland area. The last column in the schedule is the amount of time that a specific activity must start ahead of the oxygenated fuels program start date for scheduling purposes. The completion time is the amount of time required to finish a specific activity in the table.

CLEVELAND OXYGENATED FUELS CONTINGENCY PROGRAM IMPLEMENTATION SCHEDULE[1]

Activity	Completion time	Lead time needed before start date (months)
Ohio EPA evaluates data from network monitors when a violation is detected, and announces that a violation has been found and the oxygenated fuels program is needed.	1 month	13
Ohio EPA submits requests and obtains necessary program budget	Up to 12 months	12
Petroleum industry secures oxygenates and sets up tracking systems to comply with the requirements	8 months	8
Ohio EPA reviews the existing state rules requiring the program to determine if changes are needed/desired, and completes rulemaking.	7 months	7
Ohio EPA hires additional staff needed to conduct the program and trains staff	7 months	7
Ohio EPA purchases needed equipment	5 months	5
Ohio EPA secures lab contracts	4 months	4
Ohio EPA begins public awareness program	4 months	4
Ohio EPA prepares for and requires Control Area Responsible parties (CARs) to register	3 months	3

[1] Based upon this schedule, the oxygenated fuels program could be implemented the next winter season following the detection of a violation (depending upon budget lead time needed), or at maximum, would be implemented within 12 months of a violation.

Public Comment/USEPA Response

The following comments were received on the July 12, 1993, notice of proposed rulemaking. USEPA's response follows each comment.

Comment: The air quality in the Cleveland area is unhealthy and the area should remain nonattainment and the requirements not be relaxed. If nothing is done now, the problem will get worse.

Response: The State of Ohio submitted air quality modeling and monitoring data as a part of their redesignation request. These data show that the area is currently in attainment of the primary National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) and is expected to remain in attainment for at least the next 10 years. The primary NAAQS are established to protect public health. Since, the State has met the redesignation requirement to demonstrate that the air quality meets the NAAQS, USEPA believes the air quality is sufficient to protect the public health. USEPA cannot reject the redesignation request on this basis.

Comment: If the redesignation is approved, it would discourage the public transportation system in the area from making improvements to its fleet.

Response: The Intermodal Surface Transportation Efficiency Act (ISTEA) has provisions for Congestion Mitigation and Air Quality Improvement Programs. Under these provisions, funding has been made available for ozone and CO nonattainment areas for certain actions that can improve air quality. Since the air quality in Cuyahoga County remains nonattainment for ozone, they can apply for these funds.

Comment: Oxygenated gasoline creates less pollution and should be mandated in the area.

Response: While oxygenated fuel lowers CO levels, the State has shown that the CO levels are below the standard and are expected to remain below the standard for at least the next 10 years in the County, without using oxygenated fuels. Since the State has demonstrated maintenance without the measure and an oxygenated fuels program is not an applicable requirement for purposes of redesignation, EPA cannot mandate the program in this area. However, if a violation were to occur the State has committed to implement oxygenated fuels in the area.

Comment: The area should not be redesignated because it would then be required to use reformulated gasoline during the winter.

Response: Reformulated fuels are required in certain ozone nonattainment areas, and oxygenated fuels are required in certain CO nonattainment areas. These are two distinct requirements. The redesignation of the area to attainment for CO will not result in the county having a reformulated fuels requirement for controlling CO. Furthermore, under the CAA none of the areas in Ohio are currently subject to the reformulated fuels requirement.

The remaining public comments received (over 120) were all in support of the redesignation and, therefore, will not be addressed here.

Rulemaking Action

The amended Clean Air Act established new submittal requirements with respect to various programs. Therefore, USEPA reviewed the State's submittal, to determine whether the State met the applicable requirements of the amended Act.

Section 187(a)(4) of the Act establishes the I/M requirements applicable to moderate CO nonattainment areas. Section 187(a)(4) requires the State to have submitted an I/M program immediately upon enactment of the Clean Air Act Amendments of 1990. USEPA has interpreted this provision to require submittal of a commitment to USEPA by November 15, 1992, see 57 FR 52950 (Nov. 5, 1992). This commitment would commit to the submittal of an actual program by November 15, 1993. Therefore, November 15, 1992, is the date on which the I/M requirement became applicable. Although Ohio is not required to submit an approvable I/M program in order for USEPA to determine that the State has met the applicable requirements of part D, the State must have an approved I/M program prior to redesignation because it has relied on such a program to demonstrate maintenance of the NAAQS.

The redesignation request can now be approved as meeting conditions of the CAA in section 107(d)(3)(E) for redesignation, since: (1) The I/M regulations have recently been fully approved as a part of the CO SIP; (2) the State has submitted a schedule for implementing the contingency plan; and (3) the State has committed to maintain an acceptable CO monitoring network in the maintenance area. The State has also met the terms of the May 26, 1988, SIP call for the Cleveland area.

The applicable New Source Review (NSR) requirements for moderate CO areas are in section 172(c)(5) of the Act. Section 172(b) establishes a date no later than November 15, 1993, for submittal of the section 172(c) requirements. Since USEPA has not established an earlier date for submittal, the NSR requirement does not become an applicable requirement until November 15, 1993. Since Ohio submitted the redesignation request for Cuyahoga County prior to November 15, 1993, and the area is now designated attainment, there is no longer a requirement for nonattainment area CO NSR.

The amended Act also specifies new requirements—i.e., requirements not established under the pre-amended Act—for CO nonattainment areas. These include an oxygenated fuels program and an emissions inventory. These requirements were due on November 15, 1992. Since Ohio submitted the redesignation request prior to November 15, 1992, the State was not required to submit these plan elements for purposes of redesignation. Further, since the area is now designated attainment for CO, the CO emissions inventory and oxygenated fuels SIPs are no longer required. However, a CO emissions inventory was submitted as the attainment emissions inventory and is being approved as part of this redesignation action.

Nothing in this action should be construed as permitting or 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, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Today's action makes final the action proposed on July 12, 1993 (58 FR 37453) to approve Ohio's requested redesignation of Cuyahoga County to attainment for CO. This action has been reclassified from a Table 1 to a Table 2 action by the Regional Administrator under the processing 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. On January 6, 1989, the Office of Management and Budget (OMB) waived Tables 2 and 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. I certify that the approval of the redesignation request will not affect a substantial number of small entities.

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 April 5, 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 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).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

40 CFR Part 81

Air pollution control.

Note—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 2, 1993.

Valdas V. Adamkus,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding a new paragraph (c) (93) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(93) In a letter dated October 16, 1992, the OEPA submitted a revision to the Carbon Monoxide State Implementation Plan for Cuyahoga County. This revision contains a maintenance plan that the area will use to maintain the CO NAAQS. The maintenance plan contains an oxygenated fuels program as a contingency measure to be implemented if the area violates the CO NAAQS.

(i) Incorporation by reference. (A) Letter dated October 16, 1992, from Donald R. Schregardus, Director, Ohio Environmental Protection Agency to Valdas Adamkus, Regional Administrator, U.S. Environmental Protection Agency, Region 5 and its enclosures entitled "Table 1 Cuyahoga County Carbon Monoxide Emission Inventory", Enclosure B "Cuyahoga County carbon monoxide SIP submittal", and section 6.0 of Enclosure C "Cuyahoga County Carbon Monoxide Modeling Study Final Report."

(ii) Additional information.

(A) Letter dated January 14, 1993, from Donald R. Schregardus, Director, Ohio Environmental Protection Agency to Valdas Adamkus, Regional Administrator, U.S. Environmental Protection Agency, Region 5.

(B) Letter dated February 10, 1993, from Robert F. Hodanbosi, Chief, Division of Air Pollution Control, Ohio Environmental Protection Agency to David Kee, Director, Air and Radiation Division, U.S. Environmental Protection Agency, Region 5.

(C) Letter dated July 29, 1993, from Robert F. Hodanbosi, Chief, Division of Air Pollution Control, Ohio Environmental Protection Agency to David Kee, Director, Air and Radiation Division, U.S. Environmental Protection Agency, Region 5.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. In § 81.336 the carbon monoxide table is amended by revising the entry of "Cuyahoga County" to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * *				
Cuyahoga County	March 7 ..	Attainment	.....	
* * * * *				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 94–2521 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; North American Free Trade Agreement Implementation Act

AGENCY: Department of Defense (DoD).

ACTION: Interim rule; extension of comment period.

SUMMARY: The Department of Defense published an interim rule on January 10, 1994, (59 FR 1288). This document extends the close of the comment period from February 9, 1994 to March 11, 1994.

DATES: Comments on the interim DFARS rule should be submitted in writing to the address shown below on or before March 11, 1994, to be considered in the formulation of a final rule. Please cite DFARS Case 93–D310 in all correspondence related to this issue.

ADDRESSES: Interested parties should submit written comments to The Defense Acquisition Regulations Council, ATTN: Mrs. Alyce Sullivan, OUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 697–9845.

FOR FURTHER INFORMATION CONTACT: Mrs. Alyce Sullivan, (703) 697–7266.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

[FR Doc. 94–2428 Filed 2–3–94; 8:45 am]

BILLING CODE 3810–01–M

Proposed Rules

Federal Register
Vol. 59, No. 24
Friday, February 4, 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 ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 474

[Docket No. EE–RM–94–101]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Equivalent Petroleum-Based Fuel Economy Calculation

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend its Electric Vehicle Research and Development Program to provide new factors for calculating the equivalent petroleum-based fuel economy of electric vehicles. The equivalent petroleum-based fuel economy value is intended to be used in calculating the corporate average fuel economy pursuant to regulations prescribed by the Environmental Protection Agency. DOE is required to develop the procedure pursuant to section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act, as amended.

DATES: Written comments (6 copies) must be received by DOE on or before April 5, 1994. The public hearing will be held on March 23, 1994 at 9:30 a.m. at the address listed below. Requests to speak at the hearing must be received by March 15, 1994.

ADDRESSES: Written comments (6 copies) and requests to speak at the hearing are to be submitted to: U.S. Department of Energy, Office of Transportation Technologies, EE–30, Ms. Sheila Perez, 1000 Independence Avenue SW., room 6B–094, Docket Number EE–RM–94–101, Washington, DC 20585, (202) 586–6723.

The public hearing will be held in room 1E–245, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC Please bring eight copies of the prepared oral testimony to the hearing. Copies of the hearing transcript and written comments received may be obtained or inspected at the DOE Freedom of Information Reading Room, room 1E–190, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586–6020, 9 a.m.–4 p.m., Monday–Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rogelio Sullivan, U.S. Department of Energy, Office of Transportation Technologies, Electric and Hybrid Propulsion Division, Mail Stop EE–321, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8042.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, GC–41, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
A. Requirements of the Motor Vehicle Information and Cost Savings Act
B. Test Procedures
C. Calculation Procedures
1. Driving Pattern Factor
2. Electric Transmission Efficiency
3. Accessory Factor
4. Electricity Generation Efficiency and Relative Scarcity Factor
5. Petroleum Equivalency Factor Calculation
6. Alternative Measure of Relative Scarcity and Value
D. Public Access to Information
III. Opportunities for Public Comment
A. Written Comments
B. Public Hearing
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IV. Procedural Requirements
A. Environmental Review
B. Regulatory Review
C. Regulatory Flexibility Act
D. Federalism Review
E. "Takings" Assessment Review
F. Review Under Section 32 of the Federal Energy Administration Authorization Act
G. Review Under Executive Order 12778

I. Background

In an effort to conserve energy through improvements in the energy efficiency of motor vehicles, Congress in 1975 passed the Energy Policy and Conservation Act (Pub. L. 94–163). Title III of the Energy Policy and Conservation Act amended the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901, *et seq.*) by mandating fuel economy standards for automobiles produced in, or imported into, the United States. This legislation, as amended, requires that every manufacturer or importer meet a specified corporate average fuel economy standard for the fleet of vehicles which the manufacturer produces or imports in any model year. Although electric vehicles are included under the definition of the term "automobile" in the Motor Vehicle Information and Cost Savings Act, they do not consume "fuel" as defined in the Motor Vehicle Information and Cost Savings Act. Therefore, calculation of an electric vehicle manufacturer's corporate average fuel economy is impossible without a petroleum equivalency factor term.

On January 7, 1980, the President signed the Chrysler Corporation Loan Guarantee Act of 1979 (Pub. L. 96–185). Section 18 of the Chrysler Corporation Loan Guarantee Act of 1979 added a new paragraph (2) to section 13(c) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Pub. L. 94–413). Part of the new section 13(c) added subsection (a)(3) to section 503 of the Motor Vehicle Information and Cost Savings Act. That subsection directs the Secretary of Energy to determine equivalent petroleum-based fuel economy values for various classes of electric vehicles. The intent of the legislation is to provide an incentive for vehicle manufacturers to produce electric vehicles by including the expected high equivalent fuel economy of these vehicles in the corporate average fuel economy calculation and thereby to accelerate the early commercialization of electric vehicles.

Section 18 of the Chrysler Corporation Loan Guarantee Act of 1979 further amended the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 by adding a new paragraph (3) to section 13(c) which directed the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, to conduct a seven-year evaluation program of the inclusion of electric vehicles in the calculation of average fuel economy. In May 1980, pursuant to the requirements of section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act, DOE proposed a method of calculating the equivalent petroleum-based fuel economy of electric vehicles.

The rule was finalized in April 1981. The seven-year evaluation program was completed and the calculation of the annual petroleum equivalency factors was not extended past 1987. The equivalent petroleum-based fuel economy equation terms in this rulemaking change the way the electricity generation output, input and relative value factor terms are calculated. The updated equation incorporates off-peak electric vehicle charging and the relative scarcity of electricity generation fuel sources.

Administrative responsibilities for the corporate average fuel economy program are assigned to the Department of Transportation and the Environmental Protection Agency under the Motor Vehicle Information and Cost Savings Act. The Secretary of Transportation is responsible for prescribing the corporate average fuel economy standard and enforcing the penalties for failure to meet these standards. The Administrator of the Environmental Protection Agency is responsible for calculating a manufacturer's corporate average fuel economy value. The Department of Energy is responsible for developing and promulgating the petroleum equivalency factor, the key component in the calculation of equivalent petroleum-based fuel economy for electric vehicles.

II. Discussion

A. Requirements of the Motor Vehicle Information and Cost Savings Act

Section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(3)) requires DOE to determine the equivalent petroleum-based fuel economy values for various classes of electric vehicles, taking into account the following parameters:

(i) The approximate electric energy efficiency of the vehicles considering the vehicle type, mission, and weight;

(ii) The national average electricity generation and transmission efficiencies;

(iii) The need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity; and

(iv) The specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles.

Section 503(a)(3) also provides for revision of such values if necessary.

Due to continued technology development and a strong interest in the corporate average fuel economy of electric vehicles from industry, DOE is proposing an updated method of calculating the petroleum equivalency factor. Unlike the current version of 10 CFR part 474 which required annual updating of the petroleum equivalency factor, the updated methodology yields a fixed value valid through the year 2004.

B. Test Procedures

DOE is proposing to revise § 474.3 to provide that the test procedure to be used in determining equivalent petroleum-based fuel economy shall be based on the Society of Automotive Engineers Electric Vehicle Energy Consumption and Range Test Procedure J1634, effective May 1993. In accordance with 1 CFR part 51, the DOE will incorporate by reference this test procedure for the final rulemaking. Copies of the material to be incorporated by reference are available at the location indicated in the "ADDRESSES" section of this notice. The Society of Automotive Engineers Test Procedure J1634 provides standard tests for determining the energy consumption and range of electric vehicles based on the same highway and urban cycles used for gasoline-powered vehicles. The tests address electric vehicles only, and judge performance on the total vehicle system and the battery.

The current version of 10 CFR part 474 attempted to duplicate the Environmental Protection Agency urban driving cycle. The Environmental Protection Agency urban driving cycle was based heavily on stop-and-go as opposed to highway vehicle usage. Roughly 91 percent of this cycle was dedicated to stop-and-go testing and nine percent to freeway testing. The Society of Automotive Engineers J227a driving pattern closely duplicated the Environmental Protection Agency urban driving cycle and was used for electric vehicle testing in both the stop-and-go and freeway driving patterns.

DOE is today proposing that Society of Automotive Engineers Test Procedure J1634 replace Society of Automotive Engineers Test Procedure J227a to determine equivalent petroleum-based fuel economy. The current version of 10 CFR part 474 was based on the premise that electric vehicles would only be appropriate for urban use, and therefore excluded use of a separate highway test cycle when testing the electric vehicle. The resultant measurements were typical of stop-and-go driving with minimal freeway vehicle usage. In addition, the Society of Automotive Engineers Test Procedure J227a has a shorter, repetitive test cycle compared to the Society of Automotive Engineers Test Procedure J1634. This shorter, repetitive test cycle of Test Procedure J227a does not represent driving conditions for a gasoline-powered vehicle as well as the test cycle proposed in Society of Automotive Engineers Test Procedure J1634.

C. Calculation Procedures

Section 474.4 describes the steps necessary to calculate the equivalent petroleum-based fuel economy of an electric vehicle. The rule itself specifies a series of arithmetic steps one of which requires the inclusion of a Petroleum Equivalency Factor. The Petroleum Equivalency Factor is a single value incorporating the factors ii–iv specified by Congress in the Act.

While the determination of the energy efficiency of an electric vehicle as specified in section 503(a)(3)(A)(i) is a straightforward task based on physical testing, the measurement of the remaining parameters listed in section 503(a)(3)(A) of the Motor Vehicle Information and Cost Savings Act is subject to less precise quantification. A discussion of DOE's consideration of these parameters follows and is further documented in "Electric Vehicles and the Corporate Average Fuel Economy" and "Proposed Electric Vehicle Petroleum Equivalency Factor Equation" which are contained in Docket No. EE–RM–93–301.

At this time DOE is proposing the Petroleum Equivalency Factor value to be used through the year 2004. The actual figures are provided below.

The Petroleum Equivalency Factor is determined as follows:

$$PEF = DPF \times \eta_t \times AF \times \frac{E_{total}}{\sum_i I_i V_i}$$

where:

DPF = driving pattern factor
n_t = average national electrical transmission efficiency
AF = accessory factor
E_{total} = total output electricity generation mix (%)
I_i = input electricity generation of fuel i (%)
V_i = relative scarcity factor of fuel i

Each of these factors is described in further detail below:

1. Driving Pattern Factor

Section 503(c)(3)(A)(iv) of the Motor Vehicle Information and Cost Savings Act requires that DOE take into account "the specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles." The driving pattern factor is the ratio of annual vehicle miles travelled for an electric vehicle to that of a petroleum-fueled vehicle. Since there is an insufficient number of electric vehicles in service

for use as a sample, a factor of 100 percent (1.00) will be used until such time DOE has collected sufficient data to show otherwise.

2. Electric Transmission Efficiency

Section 503(c)(3)(A)(ii) of the Motor Vehicle Information and Cost Savings Act requires DOE to take account of "the national average electrical generation and transmission efficiencies." Since energy is lost in transmitting electricity, this factor has a negative effect on the equivalent petroleum-based fuel economy. The national average electrical transmission efficiency is 91.5 percent and is not expected to change significantly over the next several years.

3. Accessory Factor

Sections 503(a)(3) (iii) and (iv) direct DOE to include "the need * * * to conserve all forms of energy" and "specific driving patterns of electric vehicles as compared to petroleum-fueled vehicles" in equivalent petroleum-based fuel economy. Accordingly, DOE considered the use of petroleum fueled accessories in the Petroleum Equivalency Factor calculations. This factor is directed exclusively at heater/defroster installations that are powered by petroleum fuels and has been assigned a usage factor (reduction) of approximately ten percent per accessory. This results in three possible accessory factor values—1.00, .900, or .810—corresponding to whether the electric vehicle is equipped with none, one, or two petroleum-powered accessories respectively.

4. Electricity Generation Efficiency and Relative Scarcity Factor

The last term in the Petroleum Equivalency Factor formula takes account of the remaining parameters listed in the Motor Vehicle Information and Cost Savings Act: The national average electricity generation efficiency and the relative scarcity and value to the Nation of all fuel used to generate electricity. The term is the ratio of total output electricity generation mix to input electricity generation, weighed by a relative scarcity factor. The derivation of values for this term, and therefore, for the Petroleum Equivalency Factor, depends on the availability of data for (1) total electricity generation, (2) energy sources used in electricity generation, (3) electricity generation mix, (4) fuel source reserves, and (5) consumption of electricity generation fuel sources.

Section 503(a)(3)(A)(ii) of the Motor Vehicle Information and Cost Savings Act requires DOE to take into account average electricity generation efficiency. Electricity generation efficiency is defined as the total output electricity generation mix (E_{total}) divided by the sum of the input electricity generation mix (I^2_i) values. The updated Petroleum Equivalency Factor equation includes the effects of off-peak electric vehicle charging in its calculation of average electricity generation efficiency. The input electricity generation mix values, based on off-peak electric vehicle charging, were multiplied by the ratio of electricity generation fuel source (quadrillion BTUs) output (E_{qi}) to input (I_{qi}) values (Table I), to obtain output electricity generation mix values (Table II).

TABLE I.—E_{qi}, I_{qi} and E_{qi}/I_{qi} Ratio

Fuel source	E_{qi}[1](quads)	I_{qi}[2](quads)	E_{qi}/I_{qi} Ratio
Coal	5.318	16.150	0.329
Nuclear ..	1.968	6.186	0.318
Hydro-electric	0.955	2.911	0.328
Natural Gas	0.901	2.881	0.313
Petroleum	0.400	1.251	0.320
Total	9.542	.....	29.379

[1] Source: Monthly Energy Review, November 1991, Table 7.1, Electric Utility Net Generation of Electricity, p. 89 (million kilowatthours).

[2] Source: Monthly Energy Review, November 1991, Table 2.6, Energy Input at Electric Utilities, p. 31 (quadrillion BTU).

TABLE II.—CALCULATION OF E_{total}

Fuel source	I_i (%)	E_{qi}/I_{qi} ratio	E_{total} (%)
Coal	50.17	0.329	16.52
Nuclear	23.33	0.318	7.42
Hydroelectric	14.52	0.328	4.76
Natural Gas ..	5.72	0.313	1.79
Oil	6.29	0.320	2.01
Total ..	100.00	.....	32.51

Section 503(a)(3)(A)(iii) of the Motor Vehicle Information and Cost Savings Act also requires in part that "the relative scarcity and value to the Nation of all fuel used to generate electricity" be taken into account. The Petroleum Equivalency Factor accomplishes this by multiplying each of the individual input energy generation mix value terms used in calculating electricity generation efficiency by a relative scarcity factor (V_i). The relative scarcity factor is derived by determining the U.S. percent and numeric share of the world reserve market (Table III), and calculating the rate at which the U.S. is depleting each fuel source's reserves. These values are then normalized to obtain the relative scarcity value for each fuel source (Table IV).

TABLE III.—CALCULATION OF U.S. SHARE OF WORLD RESERVE MARKET

Fuel source	World reserve value[1]	U.S. percent of fuel source market	U.S. share of world reserve market[2]
Crude Oil, billion barrels	967.7	26.3	254.8
Dry Natural Gas, trillion cubic feet	4,083.0	26.0	1.061 6
Recoverable Coal, million short tons	1,482,801.0	17.1	253,559 0

[1] Source: 1989 International Energy Annual (February, 1991) Tables 35 and 36, pgs. 97–101. The world reserve value expressed in this table is the average of the minimum and the maximum world reserve values obtained from the 1989 International Energy Annual.

[2] Source: U.S. Share of the World Reserve Market = World Reserve Value x U.S. percent of Fuel Source Market.

TABLE IV.—CALCULATION OF RELATIVE SCARCITY VALUE, V

Fuel source	Years before depletion	% of total (abundance)	1 / Abundance	Relative scarcity, V
Crude Oil	34	.176	5.68	.487
Natural Gas	45	.233	4.29	.368
Coal	114	.591	1.69	.145
Nuclear	NA	NA	NA	.010
Hydro	NA	NA	NA	.010
Total	193	.....	11.66	.....

It should be noted that direct reserve values are not available for hydroelectric or nuclear power. Thus, relative scarcity values of .01 are assigned to each since zero values would theoretically mean infinite supplies of each exist.

5. Petroleum Equivalency Factor Calculation

The Petroleum Equivalency Factor terms, including the driving pattern factor term, average national electricity transmission efficiency term, accessory factor term, and the electric generation output, input and relative scarcity term, are multiplied together to determine the proposed Petroleum Equivalency Factor (Table V). The three different Petroleum Equivalency Factor values reflect the three possible values of the accessory factor.

TABLE V.—PETROLEUM EQUIVALENCY FACTOR CALCULATION

Driving pattern factor	Electrical transmiss. efficiency (η_i)	Accessory factor	Total output elect gen. mix (%) (E_{total})	Sum of $I_i \times V_i$	Petroleum equivalency factor
1.000	.915	1.000	.325	.128	2.32
		.900			2.09
		.810			1.88

6. Alternative Measure of Relative Scarcity and Value

Inherent in the calculation of the petroleum equivalency is a measure of the relative scarcity and value to the Nation of all electric generation fuels. This proposed rule uses a resource based measure of scarcity and value. It utilizes the estimated reserves of electric generation fuels and their rate of consumption as an estimate of each fuel's scarcity and value. Though we are confident of the soundness of this approach, we recognize that there is some support for a measure of resource scarcity and value based on its market price. The previous rule utilized this approach. It has been suggested that a BTU adjusted market price of fuel might be a more realistic and measurable reflection of the scarcity and value of electric generation fuels. Under this approach, long term price projections such as those made by the Energy Information Administration could be used instead of marginal prices to address the problems associated with frequent updating of the petroleum equivalency factor to reflect market prices. We seek comments on this alternative market price based approach as well. Comments are sought on the merits of the market price based approach and its impact on the users of the petroleum equivalency factor.

D. Public Access to Information

To assist the public in commenting on this proposed rulemaking, copies of the sources of information used in developing this rulemaking (which will be incorporated by reference) are available in Docket No. EE–RM–94–101 for public inspection and copying in the DOE Freedom of Information Reading Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

III. Opportunities for Public Comment

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or comments with respect to the proposed rulemaking. Comments should be submitted to the address indicated in the ADDRESSES section of this notice and should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Inclusion of Electric Vehicles in Corporate Average Fuel Economy Calculation—Proposed Regulation Update" (Docket No. EE–RM–94–101). Six copies should be submitted. All comments received on or before the date indicated at the beginning of the notice and all other relevant information will be considered by DOE before issuance of a final rule. Pursuant to the provisions of 10 CFR 1004.11 any person submitting information believed to be confidential and that may be exempt by law from public disclosure should submit one complete copy and eight copies from which information claimed to be confidential has been deleted. In accordance with the procedures established by 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing

1. Request To Speak Procedures

The time and place of the public hearing are indicated in the DATES and ADDRESSES sections of this notice. DOE invites any person who has an interest in the proposed rulemaking, or who is a representative of a group or class of persons that has an interest in the proposed rulemaking, to make a request

for an opportunity to make an oral presentation. Such a request should be directed to DOE at the address indicated in the ADDRESSES section of this notice.

The person making the request should briefly describe the interest concerned and if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest, and a daytime telephone number where the requester may be contacted. Six copies of a speaker's statement should be brought to the hearing. In the event that any person wishing to testify cannot provide eight copies, alternative arrangements can be made in advance of the hearing.

2. Conduct of the Hearing

DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be an evidentiary or judicial-type hearing but will be conducted in accordance with 5 U.S.C. 553 and section 501 of the Department of Energy Organization Act, 42 U.S.C. 7191. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal or clarifying statement. The statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

IV. Procedural Requirements

A. Environmental Review

Pursuant to section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 766(a)), a copy of this notice was submitted to the Administrator of the Environmental Protection Agency for the Administrator's comments concerning the impacts of this proposal on the quality of the environment.

This rulemaking has been reviewed in accordance with the requirements of the DOE—National Environmental Policy Act Final Rule as published in the **Federal Register** on April 24, 1992. Based on that review, this rulemaking was found to qualify for a categorical exclusion under Appendix A to subpart D, Item A5 of the Final Rule: Rulemaking (interpreting/amending), no change in environmental effect. The rulemaking does not change the environmental effect of the current version of 10 CFR part 474.

B. Regulatory Review

Pursuant to the January 22, 1993, memorandum on the subject of regulatory review from the Director of the Office of Management and Budget (58 FR 6074, January 25, 1993), DOE submitted this notice to the Director for appropriate review. The Director has completed his review. Separately, DOE has determined that there is no need for a regulatory impact analysis because the rule is not a major rule as that term is defined in section 1(b) of Executive Order 12291.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–345) (5 U.S.C. 601–612) requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in section 603) does not apply if the agency certifies that the rule will not, if promulgated, have a "significant economic impact on a substantial number of small entities."

DOE certifies that this action will have little, if any, effect on small business. It is directed at vehicle manufacturers that will be concerned with a mix of petroleum and electric fueled vehicles in their annual production.

D. Federalism Review

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations or rules be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating such a regulation or rule.

DOE's responsibility with this action and 10 CFR part 474 serve only to provide a method of interpreting 40 CFR part 600 (Fuel Economy of Motor Vehicles) for electric vehicles. The action does not involve any substantial direct effects on States of other considerations stated in Executive Order 12612. Hence, no federalism assessment is required.

E. "Takings" Assessment Review

It has been determined that pursuant to Executive Order 12630 (52 FR 8859, March 18, 1988), this proposed regulation, if adopted, would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

F. Review Under Section 32 of the Federal Energy Administration Authorization Act

Section 32 of the Federal Energy Administration Act of 1974 (15 U.S.C. 788) imposes certain requirements when a proposed rule contains commercial standards or authorizes or requires the use of such standards.

The commercial standards proposed today incorporate commercial standards to measure the energy consumption and range of electric vehicles. The commercial standards are the Society of Automotive Engineers Electric Vehicle Energy Consumption and Range Test Procedure J1634.

DOE has evaluated the promulgation of these standards in light of the public participation criteria of section 32(b). The Department is unable to conclude whether development of these standards fully complied with section 32(b) regarding the manner of public participation.

Finally, as required by section 32(c), DOE will consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of these standards on competition, prior to prescribing final test procedures.

G. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. The DOE certifies that today's proposed rule

meets the requirements of sections 2(a) and (b)(2) of Executive Order 12778.

List of Subjects in 10 CFR Part 474:

Electric power, Energy conservation, Incorporation by reference, Motor vehicles, Research.

For the reasons set forth in the preamble, DOE proposes to amend part 474 of chapter II of title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, DC, on January 14, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

PART 474—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM; EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION

1. The authority citation for part 474 continues to read as follows:

Authority: Section 503(a)(3) Motor Vehicle Information and Cost Savings Act, Pub. L. 94–163 (15 U.S.C. 2003(a)(3)), as added by Section 18, Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96–185; Department of Energy Organization Act, Pub. L. 95–91.

2. Section 474.2 is amended by removing the definitions for "Steady-speed electrical efficiency value" and "Stop-and-go electrical efficiency value" and adding the following definitions in alphabetical order:

§ 474.2 Definitions.

* * * * *

Highway fuel economy test procedure driving schedule electrical efficiency value means the average number of kilowatt-hours of electrical energy required for an electric vehicle to travel 1 mile of the highway fuel economy test procedure driving schedule, as determined in accordance with § 474.3(c).

* * * * *

Urban driving schedule electrical efficiency value means the average number of kilowatt-hours of electrical energy required for an electric vehicle to travel one mile of the urban driving schedule, as determined in accordance with § 474.3(b).

3. Section 474.3 is revised to read as follows:

§ 474.3 Test procedures.

(a) The conditions and equipment in the Electric Vehicle Energy Consumption and Range Test Procedure—J1634 of the Society of Automotive Engineers shall be used for conducting the test procedures set forth in this section.

(b) The energy consumption test procedures prescribed in Society of Automotive Engineers procedure J1634, Section 6, using the Environmental Protection Agency Urban Driving Schedule, shall be used for generation of the urban driving schedule electrical efficiency value.

(c) The energy consumption test procedures prescribed in Society of Automotive Engineers procedure J1634, Section 6, using the Highway Fuel Economy Test Procedure Driving Schedule, shall be used for generation of the highway fuel economy test procedure driving schedule electrical efficiency value.

4. Section 474.4 is amended by revising paragraphs (a), (b) and (e) to read as follows:

§ 474.4 Equivalent petroleum-based fuel economy calculation.

(a) Calculate the equivalent petroleum-based fuel economy of an electric vehicle as follows:

(1) Determine the urban driving schedule electrical efficiency value, according to § 474.3(b).

(2) Determine the highway driving schedule electrical efficiency value, according to § 474.3(c).

(b) Calculate the electrical energy efficiency value by:

(1) Multiplying the urban driving schedule electrical efficiency value by 0.55; and

(2) Multiplying the highway fuel economy test procedure driving schedule electrical efficiency value by 0.45; and

(3) Adding the resulting two figures, rounding to the nearest 0.01 kWh/mile.

* * * * *

(e) Calculate the equivalent petroleum-based fuel economy value in miles per gallon by multiplying the electric energy efficiency value by one of the three petroleum equivalency factor values which reflect the three production volume/accessory combinations specified in § 474.4(d):

(i) 2.32;

(ii) 2.09; or

(iii) 1.88.

[FR Doc. 94–2093 Filed 2–3–94; 8:45 am]

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FARM CREDIT ADMINISTRATION

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: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the FCA Board (Board), publishes for comment proposed regulations that would require each bank of the Farm Credit System (FCS or System), the Federal Farm Credit Banks Funding Corporation (Funding Corporation), and the Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation) to jointly publish annual and quarterly reports to investors and potential investors in Systemwide debt obligations and consolidated bank debt obligations of the Farm Credit System (FCS debt obligations). The report to investors required by the proposed rule would contain Systemwide financial statements, supplemental financial statement information, and related analyses pertaining to System institutions presented on a combined basis.

The proposed rule would 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 proposed rule would integrate individual System institutions' disclosure to shareholders with the Systemwide disclosure to investors.

Though not required by existing FCA regulations, System institutions have developed the Farm Credit System Disclosure Program (System Disclosure Program) and currently publish a "Report to Investors of the Farm Credit System" (FCS Report). Included in the FCS Report are an Information Statement that contains financial data and a general report. The content of the report to investors that would be required by this proposed rule is similar to that of the Information Statement.

The proposed regulations generally parallel the System Disclosure Program, and thus should not impose significant additional regulatory burdens on System institutions. Further, the proposed rule would not impose any new responsibilities for financial disclosure on FCS associations. However, it contains one provision that would affect the associations'

engagements with external auditors; i.e., it would provide for direct communication between association external auditors and System banks regarding questions about associations' financial information that arise in the preparation of the report to investors.

DATES: Written comments must be received on or before April 20, 1994.

ADDRESSES: Comments must be submitted in writing (in triplicate) to Patricia W. DiMuzio, Division Director, Regulation Development Division, 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 Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Tong-Ching Chang, Staff Accountant, Technical and Operations 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

Farm Credit System institutions jointly publish the 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, debt obligations issued by the System, and the external environments in which the System operates. Except for the quarter that coincides with the end of the fiscal year, System institutions also jointly publish quarterly Information Statements. In connection with the sale of debt securities, the Funding Corporation routinely distributes the FCS Report and quarterly Information Statements to the investment dealers and dealer banks (selling group) that sell FCS debt securities.

The FCA currently has no regulations that specifically govern disclosure of the System financial information contained in the Information Statement. To prevent any inconsistency with the FCA regulations regarding System institutions' disclosure to shareholders and accounting and reporting requirements and to delineate the disclosure responsibilities of System institutions in this area, the FCA proposes regulations for a new part 630, Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System. The proposed rule would govern the System's preparation and reporting of financial information to investors. The authority for the proposed regulations is section 5.17(a)(8) of the Farm Credit Act of 1971, as amended (1971 Act), 12 U.S.C. 2252(a)(8), which authorizes the FCA 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."

The proposed regulations generally parallel the System Disclosure Program. They reflect the division of responsibilities among the institutions participating in the System Disclosure Program, and the disclosures that would be required are similar to those contained in the Information Statements currently published by the System.

Under the proposed regulations, the institutions participating in the System Disclosure Program, including each of the System banks, the Funding Corporation, and the Financial Assistance Corporation,[1] would continue to share the responsibility for disclosure of Systemwide financial information to investors and the public. These institutions would be designated as the "disclosure entities" under the proposed regulations. In addition, the Funding Corporation would be responsible for filing the report to investors with the FCA. Although associations' financial statements are required by 12 CFR part 620, Disclosure to Shareholders, to be combined with their related banks' financial statements and such combined statements are included in the Information Statement, associations have no direct role in the System Disclosure Program. Consistent with the existing System Disclosure Program, the proposed regulations do not affect the current reporting relationship between a bank and its related associations, and imposes no additional reporting responsibilities on associations.

The FCA has added requirements designed to improve the disclosure entities' internal controls over Systemwide financial reporting. Because these proposed requirements are generally compatible with the System Disclosure Program, the FCA does not believe they will result in significant additional regulatory burden.

In general, the proposed regulations would (1) require the System to publish a report to investors; (2) delineate the responsibilities relating to the preparation of the report; (3) reinforce internal controls over the 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.

Under the proposed regulations, the Funding Corporation would be required to maintain a Farm Credit System Audit Committee (System Audit Committee) to oversee the Systemwide financial disclosure to investors. Each bank would also be required to establish or utilize any existing bank audit committee to oversee the bank's financial reporting to shareholders and the Funding Corporation for disclosure to investors.

The proposed rule also would implement section 514 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act) regarding disclosures to investors. Section 514(c)(2) and (d) of the 1992 Act requires the FCA to review and, if necessary, amend its financial disclosure regulations 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 System institutions.

Below is a section-by-section explanation of significant provisions of the proposed regulations.

II. Subpart A—General

A. Purpose and Definitions

Proposed § 630.1 articulates the purpose of the regulations—to require the System to publish annual and quarterly reports that will provide combined financial information on a Systemwide basis to investors and potential investors in Systemwide and consolidated bank debt obligations of the System, as well as to other users of the reports. The reports would contain combined financial statements, supplemental financial statement information, and related information pertaining to all System institutions as a whole.

Section 630.2 defines significant terms used in the proposed regulations.

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

The term "disclosure entities," as defined in proposed § 630.2(b), means all banks, the Funding Corporation, and the Financial Assistance Corporation. Because the Federal Agricultural Mortgage Corporation (Farmer Mac) is not liable for any debt or obligation of any other institutions of the System, for purposes of the proposed regulations, the term "Farm Credit System" defined in proposed § 630.2(d) does not include Farmer Mac.

Each bank may individually issue notes, bonds, debentures, or other similar obligations under authority of section 4.2(a), (b), and (e) of the 1971 Act. Also, each bank may join with other banks of the System to issue consolidated bank debt obligations under section 4.2(c) of the 1971 Act or Systemwide debt obligations under section 4.2(d) of the 1971 Act. Under section 4.4 of the 1971 Act, all banks are jointly and severally liable for debt obligations issued under section 4.2(c) or (d) of the 1971 Act. The proposed regulations use the term "FCS debt obligations" (defined in § 630.2(e)) to encompass both consolidated bank debt obligations and Systemwide debt obligations.

B. Publishing and Filing the Report to Investors

Proposed § 630.3 contains general requirements and instructions for publishing and filing annual and quarterly reports to investors by the disclosure entities. For purposes of subpart A of the proposed regulations, the term "report to investors" or "report" refers to both the annual and quarterly reports required by this part unless otherwise specified. Under proposed § 630.3(a), the disclosure entities would be required to jointly publish the report. Proposed § 630.3(b) provides that each report must present combined financial statements and accompanying footnotes to provide investors with the most meaningful presentation of the combined financial condition and results of operations pertaining to all System institutions. The proposed regulations define the required combined financial statements in proposed § 630.2(g) as the "Systemwide combined financial statements." Pursuant to proposed §§ 630.3(c) and 630.20(l), the Funding Corporation must determine the "reporting entity" [2] of the Systemwide combined financial statements in accordance with generally accepted accounting principles (GAAP).

Proposed § 630.3(c) through (g) contains general requirements similar to those followed by individual institutions in preparing and filing disclosures to shareholders under § 620.2 of this chapter. Pursuant to proposed § 630.3(c), the disclosure entities would be required to prepare their Systemwide combined financial information for disclosure to investors in accordance with the accounting and reporting standards prescribed in part 621 of this chapter. This would ensure comparability between the report to investors prepared pursuant to this proposed rule and the disclosure to shareholders prepared by individual System institutions pursuant to part 620 of this chapter.

Proposed § 630.3(e) would permit the Funding Corporation to present the information required by this part in any order it deems suitable in the report. Under proposed § 630.3(f), the Funding Corporation must disclose in the report that additional financial information regarding individual banks is contained in the banks' periodic reports and state where the reports can be obtained.

Finally, the Funding Corporation would be required to file the report to investors with the FCA in the same manner as individual banks or associations file their periodic reports with the FCA. Proposed § 630.3(g) provides that at least one of the three copies of the report filed with the FCA must be dated and manually signed on behalf of the Funding Corporation by: (1) The officer(s) designated by the Funding Corporation board to certify the report; (2) the chief executive officer of the Funding Corporation; and (3) at least one of the members of the Funding Corporation board. The signers of the report must certify that the report has been prepared in accordance with all applicable statutory or regulatory requirements and that the information it contains is true, accurate, and complete to the best of his or her knowledge and belief.

C. Responsibilities for Preparing the Report to Investors

Proposed § 630.4 delineates responsibilities of the disclosure entities and associations for preparing the report to investors. All disclosure entities have a role in the preparation of the report to investors, either by supplying essential financial information or by compiling and combining it into a meaningful Systemwide report. The disclosure entities thus bear the responsibility for the accuracy and completeness of the published report. The associations, which are not disclosure entities under this part, would be required by proposed § 630.4(d) to provide for direct communication between disclosure entities and association external auditors regarding questions pertinent to association financial information that arise in the preparation of the report.

1. Responsibilities of the Funding Corporation

Proposed § 630.4(a) sets forth the responsibilities of the Funding Corporation. The proposed regulations formalize the Funding Corporation's function in the existing System Disclosure Program by assigning the Funding Corporation the lead role among disclosure entities in preparing the report to investors.

Under proposed § 630.4(a)(1), the Funding Corporation would be required to publish the reports required by § 630.3(a). The annual report to investors must be published within 90 days after the end of each fiscal year. With the exception of the quarter coinciding with the fiscal yearend, the Funding Corporation would be required to publish a report covering each quarter within 60 days after quarterend. Within the same time period, pursuant to § 630.4(a)(4), the Funding Corporation must file these reports with the FCA in accordance with § 630.3(g).

Proposed § 630.4(a)(2) would require the Funding Corporation to establish a system of internal controls over Systemwide financial disclosure to investors. The internal control policies and procedures must be approved by the System Audit Committee. Under this system of internal controls, the Funding Corporation must: (1) Maintain written policies and procedures to be carried out by the disclosure entities for preparation of the report to investors; (2) provide instructions to the disclosure entities regarding the information needed for preparing the report to investors; (3) provide for the review and verification of information submitted by all other disclosure entities to the Funding Corporation; and (4) specify procedures for the monitoring of interim disclosures of System institutions and timely disclosure of any material changes to the most recently published report to investors.

As defined in proposed § 630.2(f), the "materiality" of an event must be determined at each reporting level in light of the surrounding circumstances under which the reporting is made. Therefore, each bank must submit to the Funding Corporation all information the bank believes to be material either to the financial statements of the bank or to the combined financial statements of the

[2] A "reporting entity" refers to the identity or boundaries of an entity for which financial statements are prepared. A reporting entity may comprise two or more affiliated entities and is not necessarily a legal entity per se.

bank and its related associations. On receipt of information from all disclosure entities, the Funding Corporation must in turn make a materiality judgment based on the aggregate effect of all information received to determine the extent of discussion and analysis to be presented in the report to investors.

Under proposed § 630.4(a)(3), the Funding Corporation would be responsible for collecting the component financial data and related analysis needed from each disclosure entity to prepare the report to investors. This provision would authorize the Funding Corporation to collect the information and any supporting data needed from each disclosure entity to comply with the requirements of proposed subparts B and C. Under the proposed regulations, the Funding Corporation would obtain associations' financial information through the banks rather than from the associations. This proposed rule integrates the requirement of part 620 of this chapter that banks prepare combined financial statements with their related associations.

Under proposed § 630.4(a)(5) and (6), the Funding Corporation would be responsible for supplying copies of the report to selling group dealers for distribution to investors and potential investors in FCS debt obligations and also for making the report available for public inspection. The FCA does not intend to impose a complex delivery system for the report to investors analogous to the prospectus delivery requirements of the Securities Act of 1933. Rather, the proposed regulations recognize that the Funding Corporation and other System institutions currently use the Information Statement to provide information to the public in connection with the sale of FCS debt securities. The FCA believes that the information contained in the report is useful to investors and seeks to ensure that the report is reasonably available to them through selling group dealers and the Funding Corporation and otherwise to the public upon request.

Under proposed § 630.4(a)(7), the Funding Corporation would be required to notify the FCA immediately when the Funding Corporation believes that it will be unable to publish and file the report within the regulatory deadline because of the failure of one or more banks to comply with their responsibilities prescribed in proposed § 630.4(c). This provision is designed to allow the FCA, if necessary, to enforce the requirement that the banks provide the information needed by the Funding Corporation to prepare the report to investors in a timely fashion.[3]

Pursuant to proposed § 630.4(a)(8), the Funding Corporation must prepare a statement to briefly explain the respective responsibilities of the disclosure entities in Systemwide financial reporting and state that the Funding Corporation has policies and procedures in place to ensure, to the best of the knowledge and belief of its management and board, that the information contained in the report is true, accurate, and complete. The statement must be signed by the Funding Corporation's chief executive officer and chairman of the board. This obligation acknowledges the Funding Corporation's shared accountability with the banks for the reports as well as its lead role among the disclosure entities for preparation of the report. For the purpose of preparing the report, if the Funding Corporation needs specific information contained in the Report of Examination of a bank or an association, proposed § 630.4(a)(9) would authorize the Funding Corporation to request such information from the Chief Examiner of the FCA.

2. Responsibilities of the Financial Assistance Corporation

Proposed § 630.4(b) sets forth the obligation of the Financial Assistance Corporation to provide the Funding Corporation with the information it requires to prepare the Systemwide combined financial statements. As noted, because the board of the Funding Corporation is the board of the Financial Assistance Corporation and has the capacity to control financial reporting of both entities, it is unnecessary to specify the Financial Assistance Corporation's responsibilities for reporting to the Funding Corporation in the proposed regulations.

3. Responsibilities of Banks

Proposed § 630.4(c) sets forth the banks' responsibilities for furnishing and updating information to be used by the Funding Corporation for preparation of the report to investors and would require each bank to provide annual, quarterly, and other interim financial information to the Funding Corporation in accordance with Funding Corporation instructions.

Proposed § 630.4(c)(5) would require several certifications from bank management relating to the information submitted to the Funding Corporation for inclusion in the report to investors. Banks must certify to the Funding Corporation that all information has been submitted in accordance with the Funding Corporation's instructions; that the information submitted is prepared in accordance with all applicable statutory and regulatory requirements; and that the information is true, accurate, and complete. Certifications to the Funding Corporation are to be signed on behalf of the board of a bank by an officer(s) designated by the bank board and by the chief executive officer. It would be the Funding Corporation's responsibility to determine the form of the certification to be made by each bank for compliance with the requirements of proposed § 630.4(c)(5).

4. Responsibilities of Associations

Under the proposed regulations, associations have no direct responsibility for preparation of the report to investors. The associations' responsibilities for preparing combined financial statements with related banks are governed by part 620 of this chapter. However, banks must be able to follow up on issues that may arise in connection with association financial information that banks will be using to prepare their information for submission to the Funding Corporation. Therefore, proposed § 630.4(d) would require each association to provide in the engagement letter with its external auditor that the external auditor shall notify the association and respond to inquiries of the related bank pertaining to the preparation of the combined financial data of the association and its related bank.

D. Prohibition Against Incomplete, Inaccurate, or Misleading Disclosure

Proposed § 630.5 prohibits incomplete, inaccurate, or misleading disclosure by any of the parties involved in the preparation of the report to investors. If, in the judgment of the FCA, an incomplete, inaccurate, or misleading disclosure has been made, the party responsible is obligated under this section to provide correct information to allow the Funding Corporation to rectify the erroneous disclosure. If a party discovers, prior to publication, that incomplete, inaccurate, or misleading disclosure has been made, the erroneous disclosure must be corrected before it is incorporated into the report. If a report containing erroneous disclosure has been published, the Funding Corporation

[3] No provision is made for notice as a result of failure of the Financial Assistance Corporation to comply with proposed § 630.5(b) because the board of the Funding Corporation is statutorily designated as the board of the Financial Assistance Corporation. The board is responsible for providing information about the Financial Assistance Corporation needed by the Funding Corporation to prepare the report to investors in a timely manner.

would be required to take corrective actions as soon as possible to ensure that the reported information presents a fair and accurate picture of the System's results of operations and financial condition. Other disclosure entities would be required to furnish the information needed by the Funding Corporation to make the correction. In addition to corrective actions by System institutions, where appropriate, the FCA may use its enforcement powers under title V, part C of the 1971 Act to enforce proposed § 630.5.

E. Audit Committees

Audit committees are a key component of an institution's corporate governance. Section 630.6(a) is proposed to formalize the existing System Audit Committee function and should have minimal effect on current operations of the System Audit Committee.

Proposed § 630.6(a) (1) through (3) would require a System Audit Committee consisting of no fewer than three members. The System Audit Committee would report to the board of the Funding Corporation. Members selected to serve on the committee must be independent of management of any disclosure entity and association and must have financial management expertise sufficient to carry out their oversight role. A person who is an officer or employee of a disclosure entity or an association would not be considered independent of management. The committee must be given adequate resources and authorities to discharge its responsibilities, including the ability to consult with the Funding Corporation's general counsel and outside counsel to discuss legal matters that may have a significant impact on the Systemwide combined financial statements and related analyses.

Proposed § 630.6(a)(4) prescribes the minimum responsibilities of the System Audit Committee. These responsibilities would include: (1) Making recommendations on the selection of an independent auditor for audits of Systemwide combined financial statements; (2) overseeing the Funding Corporation management's preparation of the report to investors; (3) reviewing the impact of significant accounting and auditing developments and approving accounting policy changes for the Systemwide combined financial statements; (4) reviewing each report and interim disclosure to investors prior to its release; and (5) overseeing the internal control system over Systemwide financial reporting for preparation of reports to investors. Lastly, the names of the System Audit Committee members must be disclosed pursuant to proposed § 630.20(n).

To prepare the Systemwide combined financial statements and related discussions and analyses, the Funding Corporation relies on financial data and narratives furnished by the banks. To provide further assurance that the banks' submissions to the Funding Corporation are accurate and complete, proposed § 630.6(b) would require that each bank establish and maintain a bank audit committee to oversee the internal controls over the bank's accounting and financial reporting. The proposed requirements of composition, membership qualifications, and responsibilities of the bank audit committee are similar to those of the System Audit Committee described above. A System bank whose audit committee is comprised of members of the entire board would meet the composition requirement of proposed § 630.6(b)(2).

Since most System banks have performed this oversight function either through a subcommittee of the board or through the full board acting as an audit committee, the FCA does not view proposed § 630.6(b) as a burdensome requirement. The audit committee requirement is consistent with the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which imposes a similar requirement on insured depository institutions with total assets of $500 million or more.

III. Subpart B—Annual Report to Investors

Proposed § 630.20 prescribes the contents of the annual report to investors. Each disclosure entity would be required to provide the information called for by this subpart, along with any supporting information, to the Funding Corporation. Information required by the proposed regulation is generally consistent with the information currently presented in the Information Statement, which should minimize any burden that may be imposed.

The proposed content requirements resemble those of the annual report to shareholders under § 620.5 of this chapter. Under proposed § 630.20(a), the report would be required to provide a description of: (1) The System's business, including the System's organizational structure, geographical area, and customers; (2) the types of lending activities engaged in and financial activities offered by System institutions; (3) significant developments affecting the System's organizational structure and the manner of conducting business; (4) acquisition or disposition of material assets; and (5) concentrations of total assets (10 percent or more) in particular types of agricultural activity or business. The report must also include the address of the headquarters of each disclosure entity and service organization of the System.

Proposed § 630.20(b) would require that the report provide a description of the regulatory and enforcement authority of the FCA, and the role and authority of the Farm Credit System Insurance Corporation (FCSIC) and the Financial Assistance Corporation. With respect to the FCSIC, proposed § 630.20(b)(2) would require that the report provide a description of the FCSIC's status as a Government corporation and its role in ensuring the timely payment of principal and interest on FCS debt obligations and providing assistance to System institutions. In addition, a statement that System institutions have no control over the management of the FCSIC or expenditures from the Insurance Fund would be required.

Proposed § 630.20(c) would require a description of System institutions' material pending legal proceedings and a summary of the types of and reasons for enforcement actions in effect during the year. Similar information is currently disclosed to shareholders by banks and their related associations under § 620.5(c) of this chapter. Therefore, the banks would be required to submit such information regarding their related associations to the Funding Corporation.

Proposed § 630.20(d) would require that the report describe the System's funding mechanism, including System banks' authority to issue debt obligations, and the types and characteristics of debt securities issued. Proposed § 630.20(d)(1) would require that the report provide a disclosure regarding debt obligations that may be issued by each bank. Accordingly, the disclosure would include a description of banks' authority to issue notes, bonds, debentures, or other obligations individually under section 4.2 (a), (b), or (e) of the 1971 Act and the fact that such debt obligations are not entitled to the benefits of insurance provided by the FCSIC.

Proposed § 630.20(d) would also require the report to contain a description of applicable statutory and regulatory restrictions that affect a bank's ability to incur debt. In addition, any agreements among banks and the Funding Corporation that affect a bank's ability to incur debt and any agreements among System institutions on matters

relating to financial assistance or loss sharing must be disclosed pursuant to proposed paragraphs (d) (2) and (3) of this section.

Proposed § 630.20(e) sets forth the requirement for a description of the System's capital structure. With respect to permanent capital compliance and statutory or regulatory prohibitions for stock retirement or earnings distribution by System institutions, proposed paragraph (e) of this section would require that the report provide the number of institutions, categorized by banks and associations, that do not comply with permanent capital standards or are under prohibitions, as well as a summary of the causes of such noncompliance or prohibitions.

The 5-year selected financial data required by proposed § 630.20(f) generally track the current System disclosure to investors and are also very similar to the requirements of § 620.5(f) of this chapter. However, the list provided under the caption "selected financial data" in proposed § 630.20(f) excludes "protected borrower capital" and related capital ratios. System institutions can no longer issue protected borrower stock. Because the outstanding balance of protected borrower capital is immaterial to the financial position of the System on a Systemwide basis and is being retired at a steady rate, the regulations would not require presentation of "protected borrower capital" and related capital ratios as an element of "selected financial data." However, "protected borrower capital" must be reported separately from at-risk capital stock in the comparative financial statements or elsewhere in the report.

Proposed § 630.20(g) would require a discussion and analysis (D&A) on material financial aspects of the System. Generally, the D&A must cover 3 comparative years. Overall, the D&A requirements under proposed § 630.20(g) are less extensive than those required by the Securities and Exchange Commission (SEC) in its Industry Guide 3 for bank holding companies. To help determine the extent of the D&A needed, proposed § 630.20(g)(6) includes general guidance for preparation of the D&A and clarifies that the purpose of the D&A is to provide useful information to investors for making business decisions.

Proposed § 630.20(g)(1) would require that the D&A include a description of the System loan portfolio by major category, the risk exposure of the loan portfolio, and secondary market activities. It would also require that the amount of loans outstanding that were used to finance the purchases of stock and other equities of System institutions be disclosed. With respect to discussions of results of operations, proposed § 630.20(g)(2)(vi) would require that the report explain how changes to Insurance Fund assets and related restricted capital affected reported income. The discussion must describe major components of the changes on a comparative basis. All other requirements regarding results of operations of proposed § 630.20(g)(2) are similar to those required by § 620.5(g)(2) of this chapter.

Proposed § 630.20(g)(3) would require a list of outstanding debt securities by type and a discussion of other sources of System funding. Proposed paragraph (g)(3)(i) of this section specifies that insured obligations must be reported separately from uninsured obligations and prescribes the minimum reporting requirement for each type of security listed. The D&A must also address a number of liquidity-related matters, such as any FCA regulations or System policies regarding liquidity and liquidity reserves; material changes in liquidity and management thereof; any regulatory limitations or System policies or objectives regarding investments; System investment portfolio; and asset/liability management practices and related measurements of interest rate risk of the System, including the use of derivatives and other off-balance-sheet transactions. The FCA notes the heightened interest of other bank regulators and the Congress in the institutional and systemic risk of the rapidly growing and relatively unregulated market for derivative financial products. It is likely that derivative product transactions by the banking industry and others will receive increased regulatory scrutiny in the future. Accordingly, while proposed § 630.20(g)(3)(iv) would require a brief discussion of derivative transactions, the FCA requests specific comment on whether disclosure requirements regarding derivative transactions should be more detailed.

Proposed § 630.20(g)(4) would require a discussion of capital resources similar to that required under § 620.5(g)(4) of this chapter.

Proposed § 630.20(g)(5) specifies the requirements for disclosure regarding the Insurance Fund. It would require that the report provide: (1) A description of the purposes for which expenditures from the Insurance Fund may be made and the statutory requirements for making such expenditures; (2) 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 the fund assets for which no specific use has been identified or designated by the FCSIC; and (3) an explanation of how FCSIC expenditures or designations of Insurance Fund assets for payment of future obligations affect the combined assets and capital of the System.

Proposed § 630.20(g)(6) contains general guidance for preparation of the D&A. Because the purpose of the D&A is to enhance a reader's understanding of the combined financial statements, information presented should be relevant to an assessment of the combined financial statements. The D&A should focus on material events and uncertainties known at the time of reporting. The information provided should be material to System institutions, clarify any ambiguities in the combined financial statements, and highlight significant aspects of the financial statements. As preparer, the Funding Corporation would be responsible for ensuring that the D&A in the report to investors is relevant and useful to investors and the public.

Sections 630.20 (h), (i), and (j) are proposed to implement the requirements of section 514 of the 1992 Act regarding disclosure of financial and conflict-of-interest information by System personnel. The proposed regulations would require the report to provide information to investors on System institutions' related-party transactions on an aggregate basis.

Under proposed § 630.20(k), "Relationship with independent public accountant," a change in the independent public accountant who audits the Systemwide combined financial statements or a disagreement with the public accountant would require disclosure if disclosure to the FCA is also required under § 621.4 of this chapter.

Proposed § 630.20(l) would require that the report present Systemwide combined financial statements that have been prepared in accordance with GAAP for the comparative periods specified. The financial statements presented must be audited in accordance with generally accepted auditing standards (GAAS) by a qualified public accountant and the accountant's opinion on the statements must be presented in the annual report to investors.

Proposed § 630.20(m) would require that the annual report present supplemental information regarding the components of Systemwide combined financial statements. Such supplemental information must be presented in accordance with the requirements and

instructions of the FCA, either as separate schedules or in accompanying notes to the Systemwide combined financial statements. The supplemental information must be examined by an independent public accountant for compliance with the FCA regulations and guidelines and the accountant's opinion must accompany the supplemental information in the report.

Proposed § 630.20 (m)(2) and (m)(3) specify that, at a minimum, the report must include current year supplemental balance sheet and income statement data for the following components: combined financial data of all banks (without associations); combined financial data of all associations; financial data of the Financial Assistance Corporation; financial data of the Insurance Fund; and combined financial data pertaining to the System with and without the Insurance Fund. Following recent correspondence and discussions with the Funding Corporation on how financial information regarding the Insurance Fund is to be presented in the 1993 FCS Report, the FCA has developed guidelines for compliance with proposed § 630.20(m). The guidelines appear in the appendix to this proposed rule and contain two schedules to illustrate the format and selected financial data to be presented in the schedules. The supplemental disclosure must include any additional information and disclosure sufficient to enable readers to understand the basis of presentation of the supplemental information, the adjustments contained therein, and the effect of each component on the Systemwide combined financial statements.

Finally, proposed § 630.20(o) would require the report to include a cross-reference sheet indicating the location of the required information.

IV. Subpart C—Quarterly Reports to Investors

Proposed § 630.40, "Content of the quarterly report to investors," contains provisions similar to those contained in subpart C of part 620 of this chapter. Supplemental financial statement information required to be disclosed in the annual report must also be presented in quarterly reports.

The proposed regulations would require a quarterly report to be presented in an easily understandable format and in a manner that is not misleading. Quarterly reports may be prepared on the presumption that readers of the report have read or have access to the most recently published annual report. The adequacy of additional disclosure needed in the quarterly report may be determined in that context.

The rules for condensation applicable to individual institutions for preparing their quarterly financial statements prescribed in part 620 of this chapter have been incorporated in proposed part 630 to apply to the preparation of the Systemwide quarterly financial statements. In addition, proposed § 630.40(b)(4) would require that quarterly reports to investors update material contingencies that exist at the time of the interim reporting even though a significant change since yearend may not have occurred.

Proposed § 630.40(d) sets forth the requirements of the interim financial statements of the quarterly report and the respective comparative periods of the interim statements presented. Proposed § 630.40(e) specifies the reporting periods for which quarterly supplemental information would be required. The proposed regulations do not require that interim financial statements or supplemental information be audited. However, the FCA may require the Systemwide combined financial statements of an interim period to be audited should the need arise for supervisory actions.

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 proposed to be 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.
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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. The reports shall contain combined financial statements, supplemental financial statement information, and related information pertaining to the System.

§ 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) *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).

(c) *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.

(d) *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).

(e) *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.

(f) *Material,* when used to qualify a requirement to furnish information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable person would attach importance in determining the financial condition of an entity.

(g) *Systemwide combined financial statements* means the combined financial statements required by this part that are prepared to 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.

§ 630.3 Publishing and filing the report to investors.

For purposes of this subpart, unless otherwise specified, the term *report to investors* or *report* refers, collectively, to the annual and quarterly reports to investors required by this part.

(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 the 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 incorporated by reference 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 information required to be included in the Systemwide combined financial statements and the information required to be disclosed 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 monitorin 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 needed for preparation of the report to investors.

(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 chairman of the board of the Funding Corporation.

(9) If necessary, request the FCA to provide information regarding the content of the latest Reports of

Examination of any banks and related associations. 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, in accordance with instructions of the Funding Corporation, annual, quarterly, and other interim financial information, including both bank-only financial data and combined financial data of the bank and its related associations, as the Funding Corporation deems necessary for preparation of the report to investors.

(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 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 approve accounting policy changes relating to preparation of the Systemwide combined financial statements;

(iv) Review the System's annual and quarterly reports and other interim disclosures 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 compliance with 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, termination of System institution status, and financial assistance provided by or to a System institution 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.

(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 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 and reasons for enforcement actions in effect during the year.

(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) The types of debt obligations that may be issued, the manner and form in which they are issued, the terms and conditions, 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;

(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 year end.

(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, during the last 3 fiscal years 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) 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) Disclose the amount of loans outstanding that were used to finance the purchases of stock or other equities of System institutions, if any.

(iii) *Risk exposure.* (A) Describe and analyze all high risk assets and other property owned, including an analysis of the nature and extent of significant credit risks and potential credit risk 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 to loans (outstanding at yearend) and net chargeoffs to average loans, and a discussion of the adequacy of the allowance for losses to absorb the risk inherent in the loan portfolio and the basis for such determination.

(iv) *Secondary market activities.* (A) Describe and quantify System institutions' secondary market activities and the risk involved in such activities.

(B) Provide an analysis of historical loss experience and the amount provided for risk of loss associated with secondary market activities, if any.

(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 significant increases or decreases, if any.

(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 the 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;

(*2*) The average maturities and the average interest rates on debt outstanding at yearend, and the average maturities and the 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) Describe 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.* Briefly describe 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) Briefly describe System 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 upon 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 the fund assets for which no specific use has been identified or designated by the FCSIC.

(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 3-year 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 that have been prepared in accordance with generally accepted accounting principles (GAAP) and instructions and other requirements of the Farm Credit Administration and that have been audited in accordance with generally accepted auditing standards by a qualified public accountant (as defined in § 621.2(i) of this chapter) and an opinion expressed thereon. 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.* (1) 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 instructions of the FCA and that has been examined by a qualified public accountant for compliance with FCA regulations and guidelines and an opinion expressed thereon.

(2) 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.

(3) 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 Insurance Fund;

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

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

(4) 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 schedules 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) The report to investors shall include a cross-reference sheet setting forth the item numbers and captions in the same order as prescribed in this subpart and the page or pages on which the corresponding information appears.

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 above, 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. A letter from the persons who verify the System's financial statements shall be included as an exhibit to the reports filed with the FCA, indicating whether or not the change is to an alternative principle that in their judgment is preferable under the circumstances, except that no such letter need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board or other authoritative body that requires such change.

(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 also shall cover material changes with respect to that 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 below:

(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)(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:

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 bank-only combined financial data of all FCS 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 bank-only combined financial data of all FCS 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: January 27, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–2242 Filed 2–3–94; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 93–ANE–14; Notice No. 33–ANE–01]

Special Conditions; Soloy Dual Pac, Inc., Model Soloy Dual Pac Engine

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Soloy Dual Pac engine. This engine will have a novel design feature associated with its configuration. The Dual Pac engine is a propulsion system in which two Pratt & Whitney (P&W) PT6 gas turbine engines are combined through a common gearbox to drive a single output propeller shaft. The Dual Pac engine is intended to provide a degree of continuous operation following the failure of one of the P&W PT6 engines. The applicable regulations do not contain adequate or appropriate safety standards for such a configuration. This notice proposes the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 33 of the Federal Aviation Regulations (FAR).

DATES: Comments must be submitted on or before March 21, 1994.

ADDRESSES: Comments on this proposal may be submitted in triplicate to: Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 93–ANE–14, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. Comments must be marked: Docket No. 93–ANE–14. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Hania Younis, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S, FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056, telephone (206) 227–2764; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under "**ADDRESSES.**" All communications received on or before the closing date for comments, specified under "**DATES,**" will be considered by the Administrator before taking action on the proposal. The proposal contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed special conditions. 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 proposal will be filed in the docket.

Commenters 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. 93–ANE–14." The postcard will be date stamped and returned to the commenter.

Background

General

On November 9, 1990, Soloy Dual Pac, Inc., applied for a supplemental type certificate for the Dual Pac engine. The Dual Pac engine is a propulsion concept in which two Pratt & Whitney PT6 engines, currently approved under Type Certificate No. E4EA, drive a single propeller shaft through a combining gearbox. The Dual Pac engine incorporates redundant freewheeling, drive, governing, and lubricating systems. A system of one-way clutches both prevents the propeller shaft from driving the engine input shafts and allows either engine to drive the propeller should the other engine fail. The supplemental type certificate for the Dual Pac engine is to be based on the type certificate of the Pratt & Whitney PT6 engine.

Safety Analysis

The certification basis of the P&W PT6 engine was established before the introduction of FAR § 33.75 (Safety Analysis). Section 33.75 addresses four types of engine failure conditions which are particularly hazardous to the safety of the aircraft. The objective of § 33.75 is to require an analysis to be performed at the engine level which establishes that any probable single or multiple failure, or any probable improper operation will not cause the engine to catch fire, burst, generate loads greater than the ultimate loads for the engine mount, or lose the capability to shut down. Consequently, it is considered appropriate to add a safety analysis requirement to the Dual Pac engine program.

Also, one objective of the Dual Pac engine is to provide continued operation after the failure of one P&W PT6 engine. While the safety analysis regulations of § 33.75 are more extensive than those of the P&W PT6 engine certification basis, they still do not address this special "continue to run" objective.

Therefore, in light of the above, it is proposed that a safety analysis requirement, modelled after § 33.75 and expanded to address continued operation after a single engine failure, be included in the Dual Pac engine certification basis.

Uncontained Engine Failure

It is assumed that the Dual Pac engine is intended for use in an aircraft and will be part of an aircraft certification program in the future. Minimizing the hazards to the aircraft from uncontained engine debris will be a very important requirement in any such certification program. In addition, for a design such as the Dual Pac, many design features intended to minimize such hazards would be determined at the engine design stage. Therefore, this issue should be addressed initially during the Dual Pac engine certification program, and possibly readdressed during the aircraft installation certification program.

As stated above, one objective of a Dual Pac engine-equipped aircraft could be continued safe flight and landing after the failure of one P&W PT6 engine. In order for the Dual Pac engine to achieve this objective, it must continue to produce adequate and controllable torque after such a failure. Service experience, however, shows that uncontained engine failures can result in high velocity fragment penetration of, among other things, other engines. This could render the other engine inoperative as well. In the case of the Dual Pac engine, such an event could end all torque production. Therefore, the Dual Pac engine must demonstrate that the two P&W PT6 engines should be protected from each other in order to

minimize the hazards associated with this event.

Gearbox Design, Functioning, and Endurance Testing

Power transmission systems, such as gearboxes, have not been specifically addressed by engine certification regulations. Previously, engines incorporating gearboxes, such as fan reduction gearing or accessor gearboxes, have been evaluated during the course of engine block tests and other engine certification activities. Transmissions such as those used in rotorcraft, however, have been addressed in rotor drive criteria contained in rotorcraft certification regulations. Since the Dual Pac engine propulsion drive system is part of the engine, it is proposed that the changes to FAR part 23, which were published as a Notice of proposed rulemaking (NPRM), "Small Airplane Airworthiness Review Program Notice No. 3," in the **Federal Register** on October 3, 1990, (55 FR 40598); and FAR § 33.87 (amended through Amendment 33–3), be used as a basis for special conditions intended to establish standards to address the design, function, and endurance testing of the gearbox. Section 33.87 regulations have been included in order to establish a comprehensive standard to address the turbine interface with the gearbox.

Type Certification Basis

Under the provisions of § 21.101 of the FAR, Soloy Dual Pace Dual Pac, Inc., must show that the Dual Pac engine meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. E4EA, or the requirements of the applicable regulations in effect on the date of the application. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The regulations incorporated by reference in Type Certificate No. E4EA are as follows:

(a) FAR § 21.29, Issue of type certificate: import products.

(b) Civil Air Regulations (CAR) Part 10, Certification and Approval of Import Aircraft and Related Products, March 28, 1955.

(c) FAR Part 33, Airworthiness Standards: Aircraft Engines, February 1, 1965, as amended through Amendment 33–5.

If the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with the regulations in effect on the date of application for the change that the FAA finds necessary to provide a level of safety equal to that established by the regulations incorporated by reference. Due to the potential applications of the Soloy Dual Pac engine, the FAA has determined that it must also be shown to comply with FAR part 33, dated February 1, 1965, as amended, plus the following sections:

(a) Section 33.7, Amendment 33–12, Engine ratings and operating limitations.

(b) Section 33.67, Amendment 33–10, Fuel system.

(c) Section 33.68, Amendment 33–10, Induction system icing.

(d) Section 33.96, Amendment 33–11, Engine test in auxiliary power unit mode.

(e) Section 21.115(a), Applicable requirements.

In addition, compliance must be shown with FAR part 34 (Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes); these special conditions contained herein on Safety analysis, Gearbox design, functioning, and endurance testing, and Uncontained engine failure; as well as any applicable equivalent safety findings and any applicable exemptions.

The Administrator finds that the applicable airworthiness regulations in part 33, as amended, do not contain adequate or appropriate safety standards for the Soloy Dual Pac engine because of its novel or unsual design feature. Therefore, the Administrator proposes special conditions 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 and opportunity for comment, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Conclusion

This proposed action affects only certain novel or unusual design features on one model engine. It is not a rule of general applicability, and it affects only the manufacturer who applied to the FAA for approval of these features on the engine.

List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The authority citations for these special conditions continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421, 1423; 49 U.S.C. 106(g); and 14 CFR 11.49 and 21.16.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Soloy Dual Pac, Inc., Model Soloy Dual Pac engine:

(a) Safety Analysis

It must be shown by analysis that any probable malfunction, or any probable single or multiple failure, or any probable improper operation of the Dual Pac engine will not cause the Dual Pac engine to—

(1) Catch fire;

(2) Burst (release hazardous fragments through the engine case);

(3) Generate loads greater than those ultimate loads specified in § 33.23(a);

(4) Lose the capability of being shut down; or

(5) Lose the capability of providing controllable 50 percent of rated power.

(b) Uncontained Engine Failure

Design precautions must be taken to minimize the damage to one P&W PT6 engine, in the event of uncontained engine failure of the other P&W PT6 engine, in order for the unfailed engine to be capable of continued torque production after such a failure.

(c) Gearbox Design, Functioning, and Endurance Testing

(1) *Propulsion Drive System Design.* Propulsion drive systems, as defined in paragraph (c)(1)(i), must meet the requirements as set forth in paragraphs (c) (1) through (6).

(i) The propulsion drive system includes all parts necessary to transmit power from the engines to the propeller shaft. This includes couplings, universal joints, drive shafts, supporting hearings for shafts, brake assemblies, clutches, gearboxes, transmissions, any attached accessory pad or drives, and any cooling fans that are attached to, or mounted on, the propulsion drive system.

(ii) Each propulsion drive system, powered by more than one engine, must be arranged so that the propeller shaft and its control will continue to be powered by the remaining engine(s) if any engine fails.

(iii) Each multiengined propulsion drive system must incorporate a device to automatically disengage any engine from the propeller shaft, it that engine fails.

(iv) The oil for components of the propulsion drive system that require continuous lubrication must be sufficiently independent of the lubrication systems of the engine(s) to ensure operation with any engine inoperative. The propulsion drive

system must be able to operate at zero oil pressure and 100 percent output speed for at least 15 seconds without damage to the components and without seizure.

(v) Torque limiting means must be provided on all accessory drives that are located on the propulsion drive system, in order to prevent the torque limits established for those drives from being exceeded.

(vi) There must be means to provide continued propulsion system control and operation, following the failure of an engine to transmission drive shaft.

(vii) In addition to the propulsion drive system complying with the requirements of paragraph (c)(1)(iii), the propulsion drive system, powered by more than one engine, must be designed so that torque to the propeller shaft is not interrupted after failure of any engine or element in the propeller shaft drive system; and examined in detail to determine all components and their failure modes that would be vital to continued control and operation of the propulsion drive system.

(viii) For each component and its failure modes identified by this examination, it must be shown by appropriate test that such a failure is not likely to occur in the system component's service life established by these tests; or that the system is designed so continued control and operation can be accomplished after occurrence of the failure.

(2) *Propulsion Drive System Limitations.* The propulsion drive system limitations must be established so that they do not exceed the corresponding limits approved for the engine, propeller shaft, and drive system components.

(i) For the Dual Pac engine, takeoff power must be limited by—

(A) The powerplant maximum rotational speed for takeoff power, and the maximum rotational propeller shaft speed may not be greater than the values determined by the propulsion drive system type design, or the maximum value shown during type tests.

(B) The time limit for the use of power, gas temperature, and speed corresponding to the limitations established in paragraph (i) of this section.

(C) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine, considering the power input limitations of the transmission with all engines operating; and

(D) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine, considering the power input limitations of the transmission with one engine inoperative.

(ii) For the Dual Pac engine, continuous power must be limited by—

(A) The powerplant maximum rotational speed for continuous power. The maximum rotational propeller shaft speed may not be greater than the values determined by the propulsion drive system type design maximum value shown during type tests.

(B) The powerplant maximum allowable gas temperature for continuous power and the maximum allowable power or torque for each engine, considering the power input limitations of the transmission with both engines operating; and

(C) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine, considering the power input limitations of the transmission with one engine inoperative.

(3) *Propulsion Drive System Instruments.* Connections for the following instruments must be provided for any gearbox or transmission:

(i) An oil pressure warning device for each pressure-lubricated gearbox to indicate when the oil pressure falls below a safe value;

(ii) A low oil quantity warning indicator for each gearbox, if lubricant is self-contained;

(iii) An oil temperature warning device to indicate unsafe oil temperatures in each gearbox;

(iv) A tachometer for each propeller shaft;

(v) A torquemeter for each transmission driving a propeller shaft; and

(vi) A chip detecting and indicating system for each gearbox.

(4) *Propulsion Drive System Endurance Tests.* Each part tested, as prescribed in this section, must be in serviceable condition at the end of the tests. No intervening disassembly that might affect these results may be conducted.

(i) *Endurance tests; general.* The propulsion drive system, as defined in paragraph (c)(1) must be tested as prescribed in paragraphs (c)(4)(ii) through (c)(4)(ix), for at least 200 hours plus the time required to meet paragraph (c)(4)(ix). For the 200-hour portion, these tests must be conducted as follows:

(A) twenty each, ten-hour test cycles consisting of the test times and procedures in paragraphs (c)(4)(ii) through (c)(4)(viii); and

(B) The test torque must be determined by actual powerplant limitations.

(ii) *Endurance tests; takeoff torque run.* The takeoff torque run endurance test must be conducted as follows:

(A) The takeoff torque run must consist of a one-hour run on the engine(s) at the torque corresponding to takeoff power, but with the engine power setting alternately cycled every five minutes to as low an engine idle speed as practicable.

(B) Deceleration and acceleration of the engines and/or of individual engines and drive systems must be performed at the maximum rate. (This corresponds to a one-second power setting change from idle to takeoff setting, and one second from takeoff setting to idle.)

(C) The time duration of all engines at takeoff power setting must total one hour and does not include the time required to go from takeoff to idle and back to takeoff speed.

(iii) *Endurance tests; maximum continuous run.* Three hours of continuous operation, at the torque corresponding to maximum continuous power and speed, must be conducted.

(iv) *Endurance tests; 90 percent of maximum continuous run.* One hour of continuous operation, at the torque corresponding to 90 percent of maximum continuous power, must be conducted at maximum continuous rotational propeller shaft speed.

(v) *Endurance tests; 80 percent of maximum continuous run.* One hour of continuous operation, at the torque corresponding to 80 percent of maximum power, must be conducted at the minimum rotational propeller shaft speed intended for this power.

(vi) *Endurance tests; 60 percent of maximum continuous run.* Two hours of continuous operation, at the torque corresponding to 60 percent of maximum continuous power, must be conducted at the minimum rotational propeller shaft speed intended for this power.

(vii) *Endurance tests; engine malfunctioning run.* It must be determined whether malfunctioning of components, such as the engine fuel or ignition systems, or unequal engine power can cause dynamic conditions detrimental to the drive system. If so, a suitable number of hours of operation must be accomplished under those conditions, one hour of which must be included in each cycle, and the remaining hours of which must be accomplished at the end of 20 cycles. This testing is to be equally divided between the following four conditions: (1) Engine #1 "ON"/engine #2 "IDLE"; (2) engine #1 "ON"/engine #2 "OFF"; (3) engine #1 "IDLE"/engine #2 "ON"; (4) engine #1 "OFF"/engine #2 "ON". If no detrimental condition results, an

additional hour of operation in compliance with paragraph (ii) of this section must be conducted.

(viii) *Endurance tests; overspeed run.* One hour of continuous operation must be conducted at the torque corresponding to maximum continuous power, and at 110 percent of rated maximum continuous rotational propeller shaft speed. It the overspeed is limited to less than 110 percent of maximum continuous speed by the speed and torque limiting devices, the speed used must be the highest speed allowable, assuming that speed and torque limiting devices, if any, function properly.

(ix) *Endurance tests; one-engine-out application.* A total of 160 full differential power applications must be made at takeoff torque and RPM. If, during these tests, it is found that a critical dynamic condition exists, an investigative assessment to determine the cause shall be performed throughout the torque/speed range. In each of the 160 engine power setting cycles (160 per engine drive branch) a full differential power application must be performed. In each cycle, the transition from clutch engagement to disengagement must occur at the critical condition for clutch and shaft wear.

(5) *Additional Propulsion Drive System Tests.* Additional dynamic, endurance, and operational test and vibratory investigations must be performed to determine that the drive mechanism is safe. The following additional tests and conditions apply:

(i) If the torque output of all engines to the transmission can exceed the highest engine or transmission torque limit, the following tests must be conducted. Under conditions associated with all engines operating, apply 200 cycles to the drive system for 10 seconds each of a torque that is at least equal to the lesser of—

(A) The maximum torque used in complying with paragraph (4)(ii) plus 10 percent; or

(B) The maximum torque attainable under normal operating conditions, assuming that any torque limiting devices function properly.

(ii) With each engine alternately inoperative, apply to the remaining transmission inputs the maximum transient torque attainable under normal operating condition, assuming that any torque limiting devices function properly. Each transmission input must be tested at this maximum torque for at least 15 minutes.

(iii) After completion of the 200 hour endurance test and without intervening major disassembly, the drive system must be subjected to 50 overspeed runs, each 30 ± 3 seconds in duration, at a speed of at least 120 percent of maximum continuous speed, or other maximum overspeed that is likely to occur, plus a margin of speed approved by the Administrator for that overspeed condition. These runs must be conducted as follows:

(A) Overspeed runs must be alternated with stabilizing runs from 1 to 5 minutes duration, each 60 to 80 percent of maximum continuous speed.

(B) Acceleration and deceleration must be accomplished in a period no longer than 10 seconds, and the time for changing speeds may not be deducted from the specified time for the overspeed runs.

(iv) Each part tested, as prescribed in this section, must be in serviceable condition at the end of the tests. No intervening disassembly that might affect test results may be conducted.

(v) If drive shaft couplings are used and shaft misalignment or deflections are probable, loads must be determined in establishing the installation limits affecting misalignment. These loads must be combined to show adequate fatigue life.

(vi) The vibration test specified in 33.83 must be applied to engine-furnished components of the propulsion drive system. The test must include the gear case and each component in the combining gear box whose failure due to vibration could cause unsafe operation of the engine.

(6) *Propulsion Drive System Shafting Critical Speed.* The critical speeds of any shafting must be determined by test, except that analytical methods may be used if reliable methods of analysis are available for the particular design.

(i) If any critical speed lies within, or close to, the operating ranges for idling and power on conditions, the stresses occurring at that speed must be within design limits. This must be shown by tests.

(ii) If analytical methods are used and show that no critical speed lies within the permissible operating ranges, the margins between the calculated critical speeds and the limits of the allowable operating ranges must be adequate to allow for possible variations between the computed and actual values.

Issued in Burlington, Massachusetts, on January 26, 1994.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–2561 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 93–NM–199–AD]

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes. This proposal would require modification of the aileron drive quadrant support structure. This proposal is prompted by results of a stress analysis check, which revealed that the factor of safety of the aileron drive quadrant support structure on Model 4101 airplanes does not meet the tail-to-wind gust load design case strength requirements specified in the Federal Aviation Regulations. The actions specified by the proposed AD are intended to prevent cracking of the support structure, which could result in reduced controllability of the airplane.

DATES: Comments must be received by April 4, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and

be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–199–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Jetstream Model 4101 airplanes. The CAA advises that results of a stress analysis check have revealed that the factor of safety of the aileron drive quadrant support structure on Model 4101 airplanes does not meet the tail-to-wind gust load design case strength requirements specified in the Federal Aviation Regulations. This condition, if not corrected, could lead to cracking of the support structure of the aileron drive quadrant, and subsequent reduced controllability of the airplane.

Jetstream has issued Series 4100 Service Bulletin J41–53–011, dated October 15, 1993, that describes procedures for modification of the aileron drive quadrant support structure below the flight compartment floor. This modification involves reinforcing the upper and lower support diaphragms of the aileron drive quadrant support structure by installing a new lower support bracket on the lower diaphragm and a new doubler plate on the upper diaphragm. The modification also includes performing functional tests of the aileron and elevator controls, and an operational test of the autopilot system. Accomplishment of the modification will increase the factor of safety of the aileron drive quadrant support structure for the tail-to-wind gust load design case and will ensure the structure meets the strength requirements specified in the Federal Aviation Regulations. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the aileron drive quadrant support structure below the flight compartment floor. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,400, or $1,100 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Jetstream Aircraft Limited: Docket 93–NM–199–AD.

Applicability: Model 4101 airplanes; constructors numbers 41004 through 41018 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the aileron drive quadrant support structure below the flight compartment floor in accordance with Jetstream Series 4100 Service Bulletin J41–53–011, dated October 15, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be

obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on January 31, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–2525 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–233–AD]

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. This proposal would require an inspection of the elevator and aileron coves, and further inspections and repair, if necessary. This proposal is prompted by a report of delamination between the composite structure and the aluminum foil on the elevator cove on a Model SAAB SF340B series airplane. The design of the aileron cove is similar to that of the elevator cove on Model SAAB SF340A and SAAB 340B series airplanes. The actions specified by the proposed AD are intended to prevent jamming of the aileron or elevator.

DATES: Comments must be received by April 4, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–233–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–233–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–233–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Aircraft AB Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that, when the pilot of a Model SAAB SF340B series airplane disengaged the autopilot during approach for landing, the elevators required additional force in order to be operated correctly. Investigation revealed that delamination had occurred between the composite structure and the aluminum foil on the elevator cove. When water entered the delaminated area and froze, the aluminum foil was raised further, causing contact with the elevator. The design of the aileron cove is similar to that of the elevator cove on Model SAAB SF340A and SAAB 340B series airplanes. The design consists of a composite structure with a conductive layer, which is composed of aluminum foil, conductive paint, or expanded aluminum foil (stretched metal—aluminum net). Delamination and freezing of trapped water in the aileron or elevator could lead to jamming of these parts.

Saab has issued Service Bulletin 340–51–012, dated November 10, 1993, that describes procedures for an inspection of the elevator and aileron coves to verify the type of antistatic protection (black conductive paint or expanded aluminum foil (an aluminum net)) applied to the coves. For coves that are found without conductive paint or expanded aluminum foil, the service bulletin describes procedures for a detailed visual inspection and delamination tap test to detect aluminum foil delamination on the coves; and either a temporary repair and repetitive detailed visual inspections and delamination tap tests of the coves, or a permanent repair of the coves. The temporary repair involves applying aluminum tape or conductive paint to the delaminated area, and accomplishing repetitive detailed visual inspections and delamination tap tests of the cove. The permanent repair entails either applying conductive paint or expanded aluminum foil (stretched metal—aluminum net) to the cove. Accomplishment of the permanent repair would terminate the repetitive detailed visual inspections and delamination tap tests. The LFV classified this service bulletin as mandatory and issued Swedish Airworthiness Directive No. 1–060, dated November 15, 1993, in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require an inspection of the elevator and aileron coves to verify the type of antistatic protection applied to the coves. For coves that are found without conductive paint or expanded aluminum foil, the proposed AD would require a detailed visual inspection and delamination tap test to detect aluminum foil delamination on the coves; and either a temporary repair and repetitive detailed visual inspections and delamination tap tests of the coves, or a permanent repair of the coves. Accomplishment of the permanent repair would terminate the repetitive detailed visual inspections and delamination tap tests. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 152 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $167,200, or $1,100 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB Aircraft AB: Docket 93–NM–233–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers –004 through –159 inclusive; and Model SAAB 340B series airplanes, serial numbers –160 through –260 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming of the aileron or elevator, accomplish the following:

(a) Within 500 hours time-in-service or 90 days after the effective date of this AD, whichever occurs first, perform an inspection of the elevator and aileron coves to verify the type of antistatic protection applied to the coves, in accordance with SAAB Service Bulletin 340–51–012, dated November 10, 1993.

(b) If a cove has conductive paint or expanded aluminum foil (stretched metal—aluminum net), no further action is required by this AD for that cove.

(c) If a cove does not have conductive paint or expanded aluminum foil (stretched metal—aluminum net), prior to further flight, perform a detailed visual inspection and delamination tap test to detect aluminum foil delamination on the elevator or aileron cove, in accordance with the service bulletin.

(1) If no delamination is found, repeat the detailed visual inspection and delamination tap test thereafter at intervals not to exceed 800 hours time-in-service in accordance with the service bulletin.

(2) If any delamination is found, prior to further flight, accomplish either paragraph (c)(2)(i) or (c)(2(ii) of this AD.

(i) Perform a temporary repair of the cove in accordance with the service bulletin. Thereafter, repeat the detailed visual inspection and delamination tap test required by paragraph (c) of this AD at intervals not to exceed 800 hours time-in-service. Or

(ii) Perform a permanent repair of the cove in accordance with the service bulletin. Accomplishment of this permanent repair constitutes terminating action for the repetitive inspection required by this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on January 31, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–2526 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Definition of "Passenger" for Purpose of the Coastwise Laws

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

ACTION: Withdrawal of proposed changes of position.

SUMMARY: This document withdraws proposed changes of position with respect to the definition of the term "passenger" for purpose of the coastwise passenger statute. Customs has concluded that it is not appropriate to change its position at this time inasmuch as it will consider changing the definition of passenger contained in 19 CFR 4.50(b) as part of a proposed revision to 19 CFR part 4 which will occur as a result of the recent enactment of title VI of the North American Free Trade Agreement Implementation Act the "Customs Modernization Act").

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, Office of Regulations and Rulings, Carrier Rulings Branch, 202–482–6940.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1991, Customs published a notice in the **Federal**

Register (56 FR 40283) proposing to change its position with respect to the definition of "passenger" for purposes of the coastwise passenger statute (46 U.S.C. App. 289). Customs stated that it was considering the revocation of its position that: (a) Persons transported free of charge as an inducement for patronage or good will are not passengers; and (b) persons transported free of charge who are less than substantially connected with the operation, navigation, ownership, or business of a vessel are not passengers. The effect of these proposed changes of position would have been that persons considered to be passengers as a result of the changes could not have been transported between coastwise points or in the coastwise trade unless they were transported in United States coastwise-qualified vessels.

The proposed changes of position would not have effected any actual change to the specific wording of the definition of passenger contained in 19 CFR 4.50(b). Customs will consider proposing an amendment to the definition of passenger in 19 CFR 4.50(b) as part of a proposed revision to its vessel regulations which Customs expects will occur as a result of the recent enactment of title VI of the North American Free Trade Agreement Implementation Act (Public Law 103–182; the "Customs Modernization Act"). In view of the enactment of the Customs Modernization Act, and the many regulatory changes which will occur as a result, Customs believes that it is not appropriate to go forward with the proposed changes of position at this time. Accordingly, the proposal is withdrawn.

George J. Weise,

Commissioner of Customs.

Approved: December 30, 1993.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 94–2622 Filed 2–3–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 73, 74, 168, 172, 173, 182, and 184

[Docket No. 93N–0348]

Lead in Food and Color Additives and GRAS Ingredients; Request for Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it intends to take several related actions to reduce the amount of lead in food from the use of food and color additives and food ingredients whose use is generally recognized as safe (GRAS). This action is part of its ongoing efforts to reduce the levels of lead in food. In this document, the agency is identifying the lead levels that it intends to propose as new, lower lead specifications for the most heavily used food and color additives and GRAS ingredients. Before proposing these specifications, however, the agency is requesting information on whether these levels are feasible, and, if they are not, information on why higher levels will not endanger the public health, and on what levels are feasible. The agency is requesting specific data and information on the lead levels and the methods for detecting lead in these substances. Additionally, the agency is requesting information on the economic and environmental effects of lowering the lead levels.

DATES: Comments and information provided by May 5, 1994.

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

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In this advance notice of proposed rulemaking (ANPRM), the agency is announcing its intention to decrease the amount of lead derived from food and color additives and GRAS food ingredients in the diet through several actions. These actions are prompted by the results of recent studies showing that deleterious health effects are caused by much lower levels of lead than previous results indicated, especially in fetuses, infants, and young children. Also, the development of more sensitive analytical methods has made it possible to detect lower lead levels in food ingredients.

This ANPRM has four purposes: (1) To discuss the toxic effects of lead and to describe the multiple sources of lead in the human environment; (2) to summarize actions that FDA and other Federal agencies have taken to reduce lead exposures; (3) to discuss available data and potential exposures to lead from the consumption of food, including food and color additives and GRAS ingredients used in food; and (4) to describe the need for new petitions for moderate and high consumption food and color additives and GRAS ingredients to include specific information on the levels of lead in these substances. This information is necessary to assess the substance's contribution of lead to the diet, and, therefore, whether it is safe for its intended use.

The agency intends to propose new, lower lead specifications for moderate and high consumption food ingredients that either are the subject of premarket review or are currently in use, to ensure that the amount of lead contributed to the diet from the use of these food and color additives and GRAS ingredients is as low as feasible. The agency intends to propose adopting specifications of 0.5 part per million (ppm) for moderate consumption food ingredients and 0.1 ppm for high consumption food ingredients, unless information is submitted to show that such levels are not feasible and that higher specifications will not endanger the public health. Finally, the ANPRM requests specific information on the lead levels and the methods used to detect lead in the moderate and high consumption substances identified and on the economic and environmental effects of lowering the lead levels in these food and color additives and GRAS ingredients. FDA will review the information provided in response to this ANPRM before it proposes modifications to the current specifications for lead in these food and color additives and GRAS ingredients.

I. Background

A. Lead Toxicity

Lead affects numerous essential body functions and has no known physiological value. The primary targets of lead are the central and peripheral nervous systems, the kidneys, and red blood cells. Recent scientific evidence indicates that lead has deleterious effects on human health at levels that were once thought to be innocuous. In fact, there is no known level of lead intake that does not produce adverse health effects.

FDA discussed the well-documented adverse health effects of lead in an ANPRM on lead in food published in the **Federal Register** of August 31, 1979 (44 FR 51233); in a proposed rule on the migration of lead from ceramic pitchers published in the **Federal Register** of June 1, 1989 (54 FR 23485); in a

proposed rule on tin-coated foil capsules for wine bottles published in the **Federal Register** of November 25, 1992 (57 FR 55485); and in a proposed rule on lead-soldered food cans published in the **Federal Register** of June 21, 1993 (58 FR 33860). Also, the Centers for Disease Control and Prevention (CDCP) discuss lead's effects in their 1991 document entitled "Preventing Lead Poisoning in Young Children" (Ref. 1).

In this ANPRM, FDA's primary concern is the effects of low levels of lead on fetuses, infants, and children from consumption of food and color additives and GRAS ingredients used in food. The adverse health effects of lead exposure in fetuses, infants, and children occur at lower blood lead levels than in adults. In particular, lead is harmful to the developing major organs, such as the brain and nervous system, of these sensitive population groups. Fetuses are sensitive to maternal dietary lead intake, especially during the development of their nervous systems. Further, infants and children ingest and absorb a larger amount of lead per unit of body weight than adults, and they also retain a larger fraction of absorbed lead.

Blood lead levels of a large number of children in the United States remain above the toxicity standards recommended by the CDCP (Ref. 1). Additionally, recent studies show a correlation between impaired childhood development and lead exposure at levels as low as 10 micrograms/deciliter (µg/dL) of lead in blood and below. Decreased stature or growth, decreased hearing acuity, impaired neurobehavioral development, and decreased intelligence have all been linked to these low levels of lead exposure in children (Ref. 1). Lead also interferes with the synthesis of vitamin D and heme, the iron containing component of hemoglobin, at blood lead levels of 10 to 15 µg/dL.

The symptoms of lead exposure at these low levels are not pronounced and are therefore difficult to assess. A technique of grouping data from different studies (meta-analysis), which enhances the ability to detect a true effect, has been used to retrospectively analyze 12 studies reported since 1981 on the relationship between childhood lead exposures and neurobehavioral development (Ref. 2). The results of this analysis strongly support the hypothesis that there is an inverse relationship between lead exposure and childhood intelligence quotient (IQ), even at very low doses. Similarly, a coordinated study by eight countries showed a significant relationship between increases in blood-lead concentration and decreases in behavioral test performance for blood-lead levels ranging from 5 to 60 µg/dL (Ref. 3).

Long-lasting adverse effects from low level childhood lead exposures have also been observed. Early postnatal exposure results in decreased cognitive performance in the preschool and early school years (Refs. 4 and 5). Academic success and the fine motor skills of young adults were also shown to be inversely related to the amount of lead in the teeth shed by children in the first and second grades (Ref. 6).

Fetuses are also at risk to low levels of lead. The available data show that the placenta is not a significant barrier to fetal lead uptake. Maternal and umbilical cord blood-lead levels of 10 to 15 µg/dL are associated with reduced gestational age and reduced weight at birth (Ref. 4). Additionally, there are several studies in which prenatal blood-lead levels were monitored, followed by monitoring of the blood-lead level and childhood development for several years after birth. In most of these studies, prenatal exposures were associated with slower sensory motor development and delayed early cognitive development (Ref. 1). Some of these associations may decrease as the child ages, if postnatal exposures are low, and subsequent socioeconomic conditions are favorable (Ref. 7).

Adult exposure to lead has been associated with higher occurrences of cardiovascular disease when blood lead levels are as low as 25 to 30 µg/dL (Ref. 8). In particular, there is an increased incidence of high blood pressure, which may lead to an increase in hypertension-related diseases. Red blood cell protoporphyrin elevation and peripheral nerve dysfunction have also been observed at these same blood lead levels (Ref. 8).

As the amount and duration of lead exposure increases, lead's effects on the body become more severe. Blood-lead levels above 40 µg/dL in all population groups can result in permanent kidney damage, acute anemia, peripheral nerve dysfunction, and severe gastrointestinal symptoms. Higher levels of lead affect the central nervous system. Blood levels greater than 80 µg/dL in children and greater than 100 µg/dL in adults can lead to acute encephalopathy, characterized by massive accumulation of fluid in the brain, gross mental retardation in children, convulsions, coma, and even death (Ref. 8).

B. Sources of Lead

Lead is ubiquitous in industrial societies. Known sources of lead include paint containing lead-based pigments, leaded gasoline, and lead solder. Lead exposure occurs through pathways such as food, air, dust, soil, and water. For children under 5 years of age, lead-based paint remains the primary source of high level lead poisoning, with ingestion of dust and soils contaminated with this paint being the primary exposure pathway. In contrast, low level lead exposure in all population groups is often caused by contributions through a variety of pathways, with no single source or pathway predominating. Because the effects of lead from all sources are additive, contributions from any single source should be well below the amount known to cause deleterious health effects.

In 1990, FDA estimated that, on average, 16 percent of a 2-year-old child's lead intake was derived from food (Ref. 9). Most of the rest of the lead was ingested from dust (75 percent). FDA has also estimated that women of childbearing age ingest 43 percent of their lead from food and 53 percent from dust and water. Children, through play and normal hand-to-mouth activities, ingest larger amounts of lead from dust and soil than adults.

Lead is introduced into food through a variety of pathways. It can enter the food chain through water, dust, soil, or air. Naturally occurring levels of lead in the environment are generally negligible compared to those caused by humans (Ref. 10). Lead in water comes primarily from the plumbing systems used for water distribution. Airborne lead, from the exhaust of cars and machinery that use leaded gasoline and from industrial activities that emit lead, can be deposited directly on plants. Lead is also deposited on soil from these sources. In addition, lead in soils is in part the result of the historical use of lead-based pesticides. Lead deposited on soil remains a long-term source of lead exposure because it does not biodegrade or decay, and it is immobilized by the organic component of soil (Ref. 10).

Food processing also contributes lead to food. Lead can be introduced through the machinery and water used in food processing, from food and color additives and GRAS ingredients used in food, and from food packaging. Cans with lead-soldered seams have been a predominant source of lead contamination in food in the recent past. If lead-based paint is present in a food manufacturing or processing facility, paint dust containing significant quantities of lead may also contaminate the food.

II. Previous Regulatory Action on Lead

A. FDA Actions

FDA has been involved in reducing the amount of lead in the diet since the 1930's. Initial efforts were aimed at controlling the use of lead-containing pesticides on fruits and vegetables. Subsequent attention has been directed at lead contributions from a variety of sources including ceramicware, lead-soldered food cans, and tin-lead capsules for wine bottles.

In the **Federal Register** of August 31, 1979 (44 FR 51233), the FDA published an ANPRM (the 1979 ANPRM) that described the sources of lead in foods, the health concerns arising from the presence of lead in foods, and the agency's plan to reduce the level of dietary lead intake derived from the use of lead solder in food cans. The 1979 ANPRM identified the maximum tolerable level of total lead intake from all sources. The notice also announced the agency's tentative plan to reduce contributions of lead from other sources in foods and requested information on existing lead levels in foods.

The agency also published a proposed rule in the **Federal Register** of June 1, 1989 (54 FR 23485) that proposed limitations on the amount of lead that could leach from ceramic pitchers (excluding creamers) that are intended for food contact. This document also proposed that decorative ceramicware that leaches high lead levels must be permanently labeled or modified in such a way as to preclude its use for holding foods. The agency recently revised its Compliance Policy Guide to include lower enforcement level guidelines for ceramic foodware (July 6, 1992, 57 FR 29734).

Beginning in 1992, FDA has accelerated its actions to reduce the level of lead in food. In the **Federal Register** of November 25, 1992 (57 FR 55485), the agency published a proposed rule to prohibit the use of tin-coated lead foil capsules as coverings on wine bottles. This action was based on evidence that under ordinary conditions of use, lead in these capsules can become a component of wine. In that document, the agency discussed the relationship between lead exposure and lead in blood and tentatively defined a provisional tolerable total intake level (PTTIL) for lead from all food and non-food sources. The agency calculated the PTTIL based on the most up-to-date knowledge of lead's lowest toxic effect levels. The agency tentatively set the PTTIL at 25 micrograms per day (μg/day) for pregnant women, who are surrogates for fetal exposure, and 75 μg/day for other adults. These values are provisional because they are based on the current lowest observed effect level (LOEL) of lead in the blood (30 μg/dL for adults and 10 μg/dL for infants, children, and pregnant women), which may need to be reduced further if additional research shows that even lower blood-lead levels cause adverse health effects.

In a proposed rule published in the **Federal Register** of January 5, 1993 (58 FR 389), the agency proposed to establish a maximum level of 0.005 milligram per liter (mg/L) as the quality standard for lead in bottled water.

In a proposed rule published in the **Federal Register** of June 21, 1993 (58 FR 33860), the agency proposed to ban the use of lead solder for domestic and imported food cans. In that document, the agency tentatively defined the PTTIL for infants and children. The agency used the LOEL of 10 μg/dL to arrive at a PTTIL of 6 μg/day for infants and children (Ref. 8). This lower PTTIL is based on the fact that children absorb lead more efficiently than do adults. In a notice published in the **Federal Register** of April 1, 1993 (58 FR 17233), the agency also announced emergency action levels for lead in foods packed in lead-soldered cans. These action levels are an interim measure to protect infants and young children from adverse effects that could result from daily consumption of foods packaged in lead-soldered cans, pending completion of the rulemaking to prohibit the use of lead solder in food cans.

In a final rule published in the **Federal Register** of January 12, 1994 (59 FR 1638), the agency amended its regulations to require that decorative ceramicware, which may leach hazardous amounts of lead into food, bear adequate indications to distinguish it from ceramic foodware (i.e., ceramicware intended for holding, storing, or serving food). This rule requires a statement and a stick-on label on the exterior surface of the decorative ceramicware that the piece is not for food use, and that it may poison food. Alternatively, the rule provides that a hole may be bored through the possible food-contact surface of the piece.

B. Other Federal Agency Actions

The elimination of lead poisoning is a coordinated effort by several Federal agencies. In 1988, the Agency for Toxic Substances and Disease Registry (ATSDR) published a report to Congress summarizing the nature and extent of lead poisoning in children. The report found that in 1984, 17 percent of metropolitan preschool children had blood lead levels that exceeded 15 μg/dL (Ref. 11). In February 1991, the Department of Health and Human Services announced a "Strategic Plan for the Elimination of Childhood Lead Poisoning." This document called for a concerted, society-wide elimination effort and described the need for a more comprehensive evaluation of blood lead levels and environmental lead contamination (Ref. 1).

CDCP also addressed the issues of lead toxicity and poison prevention in children in their October 1991 document entitled "Preventing Lead Poisoning in Young Children" (Ref. 1). This document included multitiered program, based on blood lead levels, that CDCP devised to replace the previous single definition of lead poisoning. The CDCP threshold for initiating action to reduce lead exposure was lowered from 25 μg/dL to 10 μg/dL in children because of the large amount of data showing lead's deleterious effects on development at blood lead levels of 10 μg/dL and above. The CDCP are also helping laboratories to improve the reliability of blood lead measurements and are developing improved instrumentation for analysis of blood lead levels.

In 1978, the Consumer Product Safety Commission (CPSC) banned both paint containing more than 0.06 percent lead by weight and the deliberate addition of lead to paint for use on residential surfaces, toys, and furniture. In addition, in the **Federal Register** of April 30, 1992 (57 FR 18418), the CPSC announced that it was investigating the further reduction of this maximum allowable limit to 0.01 percent. Lead-based paint is still available for industrial, marine, and military use.

In a plan for the abatement of lead-based paint published in 1990, the U.S. Department of Housing and Urban Development (HUD) found that approximately 74 percent of occupied, privately-owned houses built before 1980 still contained lead-based paint. The CDCP report (Ref. 1) summarizes the results of this report and discusses methods for decreasing lead exposure in houses painted with lead-based paint.

The Environmental Protection Agency (EPA) has been working for many years on the removal of lead in gasoline, pesticides, and, more recently, drinking water (June 7, 1991, 56 FR 26460). EPA has also recently released a report to Congress outlining a strategy to reduce human lead exposures from the environment, as summarized in the CDCP report (Ref. 1). As part of this strategy, EPA published a final rule on June 30, 1993 (58 FR 35314), that decreased the minimum quantity of several lead compounds, as emissions

from manufacturing facilities, that must be reported to the agency.

III. Lead in Food and Color Additives and Gras Ingredients

A. Exposure to Lead from Food and Food Ingredients

Based upon the results of FDA's Total Diet Study (the agency's annual market-basket survey of foods (Ref. 12)), from 1988 through 1990, FDA estimates that 2-year-old children consume about 4.5 µg of lead each day from food alone, while women of childbearing age consume about 9 µg/day (Ref. 9). For a 2-year-old child, lead intake from food is nearly equal to the PTTIL of 6 µg/day for lead from all sources, even though food is estimated to account for only 16 percent of the child's total daily intake of lead (Ref. 9).

In its 1988 report to Congress, ATSDR estimated that, in 1987, approximately 1 million young children in this country consumed sufficient lead in food to cause blood lead levels of 10 µg/dL and greater (Ref. 11).

The relation between dietary lead and lead uptake in the body is complex. Absorption of lead from the gastrointestinal (GI) tract in adults is normally about 10 to 15 percent, but it can be as high as 45 percent under fasting conditions (Ref. 8). This difference may be important, for example, when foods containing lead are consumed between meals. It has been empirically estimated that for low exposures, resulting in blood lead levels of up to 30 µg/dL, the ingestion of 1 µg of lead per day in the diet results in an increase of 0.04 µg/dL of lead in the blood of adults (Ref. 13).

Children are even more efficient at absorbing lead through the GI tract than are adults, with a rate of absorption of approximately 50 percent (Ref. 8). In children, for exposures resulting in blood lead levels up to 10 µg/dL, every microgram of lead ingested per day from the diet increases the blood lead level by 0.16 µg/dL. This level is approximately four times as much lead in the blood per equivalent dose as in adults.

B. Need for Action to Lower Lead Specifications

Since FDA began to regulate food additives in 1958, the agency has generally considered that the public health was adequately protected by specifications of 3 ppm for arsenic, 10 ppm for lead, and 40 ppm for total heavy metals (as lead) (Ref. 14). The agency believed that these specifications could readily be met in food additives produced under current good manufacturing practice (CGMP) conditions, and that these specifications would ensure that food additives would not contribute significant amounts of heavy metals to the diet. The agency also believed that the actual heavy-metal levels achieved through adherence to CGMP's would be significantly lower than these limits (Ref. 15).

When the Food Chemicals Codex was established by the National Academy of Sciences (NAS) in 1961, the Food Chemicals Codex committee adopted these specifications for nearly all food additives. These levels have remained until recently as the levels used as guidance in establishing specifications in Food Chemicals Codex monographs for food ingredients.

However, with today's increased knowledge of lead's deleterious effects at low ingestion levels, it is necessary to decrease lead specifications for food and color additives and GRAS ingredients to protect the public health. Specifications must be set at the lowest lead levels attainable through the diligent application of CGMP's to ensure that lead is reduced to its lowest possible levels in food.

The potential exists, with the high current levels of lead specifications, that food and color additives and GRAS ingredients will contribute significant amounts of lead to the diet. Even if most food ingredients do not contain the maximum amount of lead permitted by the specifications, lead ingested from the use of food and color additives and GRAS ingredients will comprise a small, although not readily quantifiable, percentage of a person's total dietary lead intake. Because low level lead exposure is often the result of contributions from multiple small sources, significant reductions in a person's overall lead exposure can result from reductions in the levels of lead in many of those sources. Although some sources may be difficult to control, the agency believes that industry has the ability to reduce lead levels in food and color additives and GRAS ingredients, either through tighter control of starting material purities or improvements in manufacturing processes.

To illustrate the potential lead exposure from food and color additives and GRAS ingredients, FDA has calculated the possible per capita lead intake from the use of those additives and GRAS ingredients that are added to the U.S. food supply in amounts greater than 25 million pounds per year[1]. These high consumption substances (currently 38) constitute over 80 percent by weight of all substances in the 1987 NAS survey. The agency recognizes that the absolute poundages of these substances may not be accurately portrayed in the survey because the information is voluntarily reported. However, the agency believes that the data accurately reflect the relative ranking of the substances. Therefore, the data are useful for illustrative purposes and can serve as a means of prioritizing actions on food ingredients based on relative usage levels.

The 38 substances are listed in Table 1 in decreasing order of reported use, along with their maximum lead specifications. When possible, the lead specifications that are either listed or referenced in FDA regulations for lead or heavy metals (as lead) are shown. If no lead specification is referenced in FDA regulations, the most recent specification in the Food Chemicals Codex (Refs. 16 through 18) is listed. For the few food substances that have no lead specification, FDA used a lead level of 1 ppm to calculate the potential lead exposure.

TABLE 1—MOST WIDELY USED FOOD SUBSTANCES AND THEIR CURRENT LEAD SPECIFICATIONS[1]

Substance[2]	Lead Limit[3] ppm	Substance[2]	Lead Limit[3] ppm
High fructose corn syrup	**0.5**	**d-Sorbitol**	*10.0*
Sucrose	**0.5**	Lactose	-
Corn syrup	**0.5**	Calcium oxide	*10.0*
Corn gluten	-	**Sodium bicarbonate**	**5.0**
Soybean oil	**0.1**	**Mono-diglycerides**	**10.0**
Sodium chloride	*4.0*	Palm kernel oil	*0.1*
Sucrose liquid	-	Phosphoric acid	*10.0*
Corn oil	**0.1**	Maltodextrin	*0.5*
Dextrose	*0.1*	**Iron, reduced**	*25.0*
Whey	*10.0*	**Niacin**	**20.0**
Calcium carbonate	**10.0**	Sodium phosphate, di-	**10.0**
Coconut oil	**0.1**	Monosodium glutamate	*10.0*
Caramel	**10.0**	Peanut oil	*0.1*
Diatomaceous earth	*10.0*	Casein	*5.0*
Starch, food, modified	*5.0*	Azodicarbonamide	*10.0*
Cottonseed oil	**0.1**	**Calcium sulfate**	**10.0**
Cocoa butter substitute	*10.0*	Sulfuric acid	*5.0*
Sodium hydroxide	*10.0*	Glycerin	**5.0**
Citric acid	*10.0*	Sodium citrate	**10.0**

[1] Substances are listed in decreasing order of poundage. High volume substances (poundages greater than 100 million pounds per year) are listed on the left, while moderate volume substances (25 million to 100 million pounds per year) are on the right.
[2] Boldface substances have specifications in the Code of Federal Regulations.
[3] The type of lead specification is indicated by the font type: Boldface type means that the level is an actual lead specification, italics mean that the lead level is from a specification denoted "heavy metals as lead," and a dash indicates that there is no available lead specification.

Based upon the lead levels listed and the per capita intake of these substances, FDA calculates that the theoretical maximum per capita intake of lead from the food use of these 38 widely used substances could reach 164 µg/day if all lead levels were at their maximum specification limits. Although it is clear from FDA's total diet study (Ref. 9) that the amount of lead consumed (4.5 µg/day for a 2-year-old child and 9 µg/day for women of childbearing age) is not nearly as high as the sum of these specifications would permit, the calculation illustrates the potential lead exposure if food and color additives and GRAS ingredients were consistently produced with lead levels near the specification limits. It also demonstrates that these specification levels are collectively well in excess of the levels of lead in the ingredients actually being added to food.

The agency has also calculated the potential effect on the ingestion of lead if all of the lead specifications for these 38 substances were reduced. If the agency were to replace the current lead specifications with lower lead levels of 0.1 ppm for high volume substances (those with disappearance poundages greater than 100 million pounds/year) and 0.5 ppm for those of moderate volume (between 25 million and 100 million pounds per year), FDA has estimated that the theoretical per capita intake of lead from these 38 most widely used food ingredients could be reduced from 164 µg/day to 13 µg/day (Refs. 19 and 20). Although lead levels are generally not as high as current lead specifications allow, lowering these specifications is likely to have the effect of lowering lead exposure. Manufacturers will be more concerned about monitoring and controlling the lead content of their products to ensure that the lead levels are substantially below the new specification levels, and that the normal variations in lead content that occur from batch to batch do not produce a violative product. Also, lower lead specifications will protect subsets of the population that might eat food that has been produced with food ingredients containing unusually high lead levels, if, for example, a particular manufacturer uses a process that results in the food ingredient having a higher level of lead than average.

As a further illustration, the agency has calculated the potential decrease in lead intake from reduction of lead specifications in a specific color additive, caramel. Caramel currently has a 10 ppm lead limit specification in FDA regulations (21 CFR 73.85). However, the food industry usually controls for contaminants at levels that are significantly lower than the established specification levels to ensure that all production batches will be in compliance. From informal conversations with industry, the agency believes that a reasonable control level might be one-fifth the specification level. Using the data from the 1987 NAS poundage survey (Ref. 19), and assuming that all caramel is produced with lead levels at one-fifth the specification, or 2 ppm, the agency calculates that the potential per capita lead exposure from caramel could still be as high as 1.6 µg/day. Reducing the specification to 0.1 ppm could result in a potential 100-fold reduction in lead levels in caramel.

High fructose corn syrup (HFCS), one of the most heavily used food ingredients in the United States according to the NAS poundage survey, illustrates the efforts industry has made to aid FDA and a Food Chemicals Codex committee in setting lower lead specifications that more accurately reflect actual lead levels. HFCS has been commercially produced since 1967, and FDA listed HFCS containing 43 percent fructose as GRAS in 1983 (21 CFR 182.1866). The listing, however, does not include any specifications for impurities such as lead. In the absence of lead specifications, industry was guided by the Food Chemicals Codex committee's general impurities policy that included a 10 ppm lead specification (Ref. 16). It was not until 1986 that a Food Chemicals Codex monograph was developed for HFCS, which set a lead specification of 1 ppm (Food Chemicals Codex, 3d ed., 2d supp. (Ref. 17)). The Food Chemicals Codex lead specification was further reduced in 1992 to 0.5 ppm as a result

[1] This calculation is based upon disappearance data from a 1987 survey by the NAS on the quantities of food substances added by the U.S. industry to food (Ref. 19). FDA recognizes that disappearance data identify the amounts of substances available for use in food and food processing, but do not necessarily mean that all of these amounts are consumed in food.

of cooperative interactions between FDA, the Food Chemicals Codex, and industry. In response to a request by the agency in 1990, industry provided preliminary data on lead levels in a small sampling of HFCS measured by methods that are more sensitive than routine quality control methods. Actual lead levels ranged between 0.002 and 0.073 ppm in the samples analyzed (Refs. 21 and 22). Although measurements with this level of sensitivity are not yet done on a routine basis, these results suggest the actual amounts of lead in HFCS. Using these measurements, a 12-ounce (oz) can of soda that contains 10 percent HFCS probably contains lead in the range of 0.07 to 2.6 µg, whereas existing lead specifications would allow 18 µg of lead. Lowering the specification for lead in HFCS to 0.1 ppm would reduce the maximum allowable lead from HFCS in a 12 oz can of soda to 3.6 µg.

C. Changes in Food Chemicals Codex Lead Specifications

As part of FDA's initiative to reduce lead in food, the agency has been working with the Food Chemicals Codex committee of the NAS to review lead specifications for selected food ingredients. The 3d edition of the Food Chemicals Codex and its four supplements contain specifications and analytical methodologies for over 900 food ingredients. The specifications are used by food processors and manufacturers of food ingredients in the United States and in other countries as guidelines for their products' purity. The specifications are also often incorporated by reference into FDA's regulations for food and color additives and GRAS ingredients.

The agency's concerns regarding lead levels in food ingredients were presented to the Food Chemicals Codex committee during a workshop on May 2, 1991. For many substances, the Food Chemicals Codex currently specifies a 10-ppm lead limitation (see section III.B. of this document). Following the workshop, the Food Chemicals Codex committee updated its policy for establishing lead specifications for food ingredients. Previously, lead specifications were set at the lowest practicable levels based on CGMP and the capability of analytical methodology to determine the lead level in individual food ingredients. The Food Chemicals Codex committee's policy, announced in the **Federal Register** of July 15, 1993 (58 FR 38129), now provides that the Food Chemicals Codex will set lead specifications by also considering the estimated lead intake from use of the food ingredient and the potential health hazard of these intake levels, in a fashion similar to that which the agency is considering.

As an outgrowth of the Food Chemicals Codex committee workshop, new and revised lower lead specifications have been published for several food ingredients in the Food Chemicals Codex (3d ed., 3d supp. (Ref. 18)). For example, included are lead specifications of 0.1 ppm for dextrose and fructose and 0.5 ppm for less refined products, such as glucose syrups, maltodextrin, and polydextrose. The Food Chemicals Codex committee has been reviewing and revising the lead specifications for other food and color additives and GRAS ingredients as well (Ref. 23). The Food Chemicals Codex committee is expected to continue reducing lead specifications in future monograph revisions for inclusion in the fourth edition of the Food Chemicals Codex.

IV. Changes in FDA Lead Specifications

Because of the possibility that significant amounts of lead might be introduced into food from regulated food and color additives and GRAS ingredients, and because of the increased knowledge of the deleterious health effects of low level lead exposure, FDA has started to take action to limit the potential dietary intake of lead from these sources. Based on the considerations discussed in section III. of this document, the agency is focusing on high and moderate consumption substances, such as those listed in Table 1 of this document.

The agency has begun requesting that information on lead levels be included in certain food and color additive and GRAS affirmation petitions. FDA is asking that petitions for either new uses of regulated high and moderate consumption substances, or new substances that are expected to be consumed in significant quantities, show that lead levels in the petitioned products are as low as CGMP's allow. Given the toxicity of lead, such evidence is necessary if the agency is to make a determination on the safety of the additive for its proposed use. The agency will evaluate the data that it receives on lead levels during the petition review process and set lead specifications at levels that are necessary to ensure that there is a reasonable certainty of no harm from use of the additive.

Lower specifications, to be meaningful, will need to be supported by analytical methods that allow quantification of lead at the reduced levels. Recent advances in instrumentation should allow for reliable, quantitative detection of lead in food ingredients at much lower levels than possible with previous analytical methods. For example, in the Food Chemicals Codex (3d ed., 3d supp. (Ref. 18)), a graphite furnace atomic absorption spectrophotometric method is described that detects lead in substances such as edible oils at levels less than 1 µg/g (1 ppm) of lead. A similar method has been developed for nutritive sweeteners (Ref. 24). Development of more sensitive routine analytical procedures or expertise in more sophisticated methods will facilitate routine testing for lead below 0.1 ppm and will enable industry to further control and eliminate lead from food ingredients. Thus, the agency is asking petitioners to provide analytical methodologies that are capable of detecting lead at sub-ppm levels and to show that these methodologies have been validated.

FDA recognizes the need to lower its lead specifications for high and moderately high consumption food and color additives and GRAS ingredients to ensure that their use is safe. Thus, in the absence of persuasive comments to the contrary, the agency intends to propose setting specifications at 0.1 ppm lead for high-poundage ingredients (greater than 100 million pounds per year, such as substances in the left column of Table 1) and 0.5 ppm lead for moderately high-poundage ingredients (between 25 and 100 million pounds per year, such as substances in the right column of Table 1). FDA plans to propose establishing these specifications for new ingredients, new uses of previously regulated ingredients, and currently regulated ingredients. Also, FDA is considering only adopting Food Chemicals Codex lead specifications for individual ingredients when it finds that the levels are low enough to protect the public health.

Comments on these approaches to setting specifications for lead, and suggestions for alternative approaches for developing consistent lead specifications for all current and future uses of food and color additives and GRAS ingredients that still protect the public health, are requested.

V. Request for Information

Although FDA has extensive information concerning lead in its files, additional information on the following topics will greatly assist the agency both in setting specifications for lead in food and color additives and GRAS ingredients and in minimizing the exposure to lead in a consistent manner:

1. Current data on actual lead levels in: (a) Food and color additives and

GRAS ingredients, the variation in these levels, and suggested lead specifications for each substance. Of particular interest are the high consumption substances in the left column of Table 1 of this document and the moderate consumption substances in the right column of Table 1. Also of interest are other substances that, although consumed at a lower rate, contain sufficiently high levels of lead to be of concern; (b) agricultural commodities that are raw materials for many food ingredients; and (c) nutrient supplements (e.g., calcium, iron).

2. Analytical methods for detecting sub-ppm levels of lead in food components, including detection limits, reliability of the methods for different food and color additives and GRAS ingredients, and validation data. Of particular interest are improvements in graphite furnace atomic absorption spectrophotometry and studies of its applicability to the 38 substances listed in Table 1.

3. Information on the potential economic impact, if any, associated with the manufacture of the 38 food and color additives and GRAS ingredients listed in Table 1 if the lower lead levels are adopted. FDA is required to assess the economic consequences of any regulation it proposes, but it does not possess data that would permit detailed assessment of the economic impact of adopting lower lead specifications.

4. Information on the potential environmental impact that may be associated with the manufacture of the 38 food and color additives and GRAS ingredients if lower lead specifications are adopted. Under the National Environmental Policy Act, FDA must consider the environmental impact of its actions. However, the agency does not now possess the data that would permit detailed analysis of the environmental impact of adopting lower lead levels. Therefore, the agency is requesting environmental information that includes, but is not limited to, the following: (a) A description of the additional steps, if any, required to produce these food and color additives and GRAS ingredients with the reduced lead specifications and of the environmental impact of these steps; (b) the environmental impact of additional testing, if any, performed to ensure compliance with the lower lead specifications; and (c) a description of measures that could be taken to avoid or mitigate adverse environmental impacts, if such impacts are predicted to result from this action.

VI. Conclusion

FDA has had a longstanding goal of reducing lead exposure from all dietary sources. Because lead is ubiquitous, and exposure to lead is from a multitude of different sources, lead levels from each source must be sufficiently low to ensure that a person's total lead exposure is not harmful. The agency believes that lead specifications in food and color additives and GRAS ingredients can be lowered to help achieve this goal and protect the public health. Therefore, the agency intends to lower lead specifications in food and color additives and GRAS ingredients that are consumed in large amounts by the general population to levels that will offer adequate protection.

FDA plans to propose lead specifications of 0.5 ppm for moderate consumption food ingredients and 0.1 ppm for high consumption food ingredients. The agency is requesting information on current lead levels in food ingredients and analytical methods for determining these lead levels, and on the economic and environmental effects of complying with these specifications. The information received in response to this ANPRM will be used to determine the feasibility of adopting these target specifications. The agency intends to propose these specifications unless information is submitted to show that such levels are not feasible and higher specifications will not endanger the public health.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. CDCP, Department of Health and Human Service, Public Health Service, "Preventing Lead Poisoning in Young Children," October 1991.

2. Needleman, H. L., and C. A. Gatsonis, "Low-Level Lead Exposure and the IQ of Children," *Journal of the American Medical Association*, 263:673–678, 1990.

3. Winneke, G., A. Brockhaus, U. Ewers, U. Kramer, and M. Neuf, "Results from the European Multicenter Study on Lead Neurotoxicity in Children: Implications for Risk Assessment," *Neurotoxicity and Teratology*, 12:553–559, 1990.

4. Bellinger, D., A. Leviton, C. Waternaux, H. Needleman, and M. Rabinowitz, "Longitudinal Analyses of Prenatal and Postnatal Lead Exposure and Early Cognitive Development," *New England Journal of Medicine*, 316:1037–1043, 1987.

5. Baghurst, P. A., A. J. McMichael, N. R. Wigg, G. V. Vimpani, E. F. Robertson, R. J. Roberts, and S. L. Tong, "Environmental Exposure to Lead and Children's Intelligence at the Age of Seven Years: The Port Pirie Cohort Study," *New England Journal of Medicine*, 327:1279–1284, 1992.

6. Needleman, H. L., A. Schell, D. Bellinger, A. Leviton, and E. N. Allred, "The Long–Term Effects of Exposure to Low Doses of Lead in Childhood: an 11-year Follow-up Report," *New England Journal of Medicine*, 322:83–88, 1990.

7. Bellinger, D., J. Sloman, A. Leviton, M. Rabinowitz, H. L. Needleman, and C. Waternaux, "Low–Level Lead Exposure and Children's Cognitive Function in the Preschool Years," *Pediatrics*, 87:219–227, 1991.

8. Memorandum, dated November 18, 1991, from Contaminants Team, Standards and Monitoring Branch, to Additives Evaluation Branch, "Clarification of Terminology Used in the Development of the Provisional Total Tolerable Intake Levels for Lead."

9. Bolger, P. M., C. D. Carrington, S. G. Capar, and M. A. Adams, "Reductions in Dietary Lead Exposure in the United States," *Chemical Speciation and Bioavailability*, 3:31–36, 1991.

10. Elias, R. W., "Lead Exposures in the Human Environment," in *Dietary and Environmental Lead: Human Health Effects*, edited by K. R. Mahaffey, Elsevier Science Publishers, B. V., Amsterdam, pp. 79–107, 1985.

11. Agency for Toxic Substances and Disease Registry, Public Health Service, "The Nature and Extent of Lead Poisoning in Children in the United States: A Report to Congress," pp. (VI–44)–(VI–49), July 1988.

12. Pennington, J. A. T. and E. L. Gunderson, "History of the Food and Drug Administration's Total Diet Study—1961 to 1987," *Journal of the Association of Official Analytical Chemists*, 70:772–782, 1987.

13. Carrington, C. D. and P. M. Bolger, "An Assessment of the Hazards of Lead in Food," *Regulatory Toxicology and Pharmacology*, 16:265–272, 1992.

14. Excerpts from "Chemical Problems Encountered in the Administration of the Food Additives Amendment," a speech given by L. L. Ramsey at "Symposium on Analytical Methods for Food Additive and Pesticide Chemicals," American Chemical Society, New York, NY, September, 1960.

15. Excerpt from *Food Chemicals Codex Advisory Panel Bulletins*, December 1962, letter from Dr. Henry Fischbach, FDA, to Dr. Justin L. Powers, Food Chemicals Codex Director, NAS.

16. Food Chemicals Codex, 3d ed., National Academy Press, Washington, DC, 1981.

17. Food Chemicals Codex, 3d ed., 2d supp., National Academy Press, Washington, DC, 1986.

18. Food Chemicals Codex, 3d ed., 3d supp., National Academy Press, Washington, DC, 1992.

19. Memorandum, dated July 17, 1992, from Food and Color Additives Review Section, to Indirect Additives Branch, "Lead in Food Additives—Hypothetical Effects on Dietary Lead Intake of Lowering Lead Specifications."

20. Memorandum, dated December 16, 1993, from Chemistry Review Branch, to Indirect Additives Branch, "Lead in Food

Additives. Fructose Disappearance Data and Predicted Lead Intake. Request for Additional Information dated 12–14–93."

21. Letter, dated February 5, 1990, from Kyd D. Brenner, Corn Refiners Association, Inc., to John W. Gordon, FDA.

22. Letter, dated March 22, 1990, from Kyd D. Brenner, Corn Refiners Association, Inc., to John W. Gordon, FDA.

23. Bigelow, S. W., "Role of the Food Chemicals Codex in Lowering Dietary Lead Consumption: A Review" *Journal of Food Protection*, 55:455–458, 1992.

24. ILSI North America, Subcommittee on Trace Minerals in Foods, "Report to the FCC Committee on Methodology for Lead in Sweeteners," June 28, 1993.

VIII. Comments

Interested persons may, on or before May 5, 1994, submit to the Dockets Management Branch (address above) written comments regarding this advance notice of proposed rulemaking. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Trade secret and commercial confidential information should be submitted to the contact person identified above. Trade secret and commercial confidential information will be protected from public disclosure in accordance with 21 CFR part 20.

Dated: January 12, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–2472 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–61–93]

RIN 1545–AS23

Disallowance of Deductions for Employee Remuneration in Excess of $1,000,000; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (EE–61–93), which was published in the **Federal Register** for Monday, December 20, 1993 (58 FR 66310). The proposed regulations relate to the disallowance of deductions for employee remuneration in excess of $1,000,000.

FOR FURTHER INFORMATION CONTACT: Robert Misner or Charles T. Deliee, (202) 622–6060 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 162(m) of the Internal Revenue Code. These regulations are proposed to conform the Income Tax Regulations to section 13211 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), which added subsection (m) to section 162 of the Code.

Need for Correction

As published, the proposed rulemaking contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of proposed rulemaking (EE–61–93), which was the subject of FR Doc. 93–30993, is corrected as follows:

§ 1.162–27 [Corrected]

1. On page 66314, column 2, § 1.162–27(c)(3)(ii)(A), line 2, the language "3121(a)(1) through section 3121(a)(5)(D)" is corrected to read "3121(a)(5)(A) through section 3121(a)(5)(D)".

2. On page 66318, column 3, § 1.162–27(e)(4)(viii), under *Example 3*, lines 10 and 11 from the top of that column, the language "disclose the maximum amount of compensation that any executive may receive" is corrected to read "disclose that the maximum amount of compensation any executive may receive".

Jacquelyn B. Burgess,

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

[FR Doc. 94–2623 Filed 2–3–94; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 15–1–5862; FRL–4833–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this revision to the Missouri State Implementation Plan (SIP) is to incorporate the lead nonattainment areas into the existing new source review (NSR) program. This revision changes the applicability requirements by changing the definition of nonattainment area in the state regulations to include lead nonattainment areas, and to delete the Kansas City area as a nonattainment area in light of its attainment of the ozone standards.

This action proposes a limited approval because Missouri has not yet submitted to EPA augmented new source permit rules which meet the amended requirements of part D of title I of the Clean Air Act.

DATES: Comments must be received on or before March 7, 1994.

ADDRESSES: Comments may be mailed to Robert J. Lambrechts, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Robert J. Lambrechts at (913) 551–7846.

SUPPLEMENTARY INFORMATION: The objective of this proposed rulemaking is to approve the three Missouri lead nonattainment areas into the existing NSR program in Missouri. This SIP revision contains the amendments to the SIP defining three areas in Missouri as nonattainment for lead. In 1978, when EPA promulgated the lead National Ambient Air Quality Standard (NAAQS), it was not authorized to designate areas nonattainment, attainment, or unclassifiable for lead. Under the Clean Air Act Amendments of 1990 (CAAA) [1], EPA was authorized to require states to designate areas as nonattainment, attainment, or unclassifiable for lead. On November 6, 1991, at 56 FR 56694, EPA designated the following areas as nonattainment for lead: the city of Herculaneum in Jefferson County; and the Dent, Liberty, and Arcadia townships in Iron County. The designations were effective January 6, 1992.

1. Lead NSR

The CAAA made numerous changes to the NSR requirements in the Clean Air Act (CAA). Once an area has been designated nonattainment for lead, a state is required to adopt a permit program for the construction and

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein to "the Act" or "CAA" are to the Clean Air Act as amended, 42 U.S.C. 7401, et seq.

operation of new or modified major stationary sources anywhere in the nonattainment area. For areas designated nonattainment for the primary lead NAAQS subsequent to enactment of the 1990 Amendments, section 191(a) requires that within 18 months of designation, states submit SIPs which, among other nonattainment planning requirements, have a nonattainment program consistent with the provisions of part D of the Act, including sections 172 and 173 of the Act as amended. Section 172(c)(5) requires that states submit provisions requiring permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area in accordance with the provisions of section 173.

2. Limited Approval/Disapproval Status

EPA is proposing to grant this SIP submittal limited approval because it does not meet all of the applicable requirements of the Act [2]. However, this proposed limited approval strengthens the existing SIP as representing an improvement over what is currently in the SIP, and as meeting some of the applicable requirements of the Act. In particular, the amendment means that Missouri's NSR requirements, which meet all of the provisions of the preamended Act, apply to new and modified sources of lead in the nonattainment areas.

However, the Missouri rule does not meet all the specific requirements of part D. These include, among others, requirements for alternate site analyses as part of NSR for all sources in nonattainment areas. Therefore, EPA is proposing only a "limited" approval of this SIP. If the state fails to submit the additional revisions, EPA will be required to issue a limited disapproval at a later date.

3. Impact of this Rule Revision on Kansas City Attainment Status

Missouri's rule change also eliminates the Kansas City metropolitan area from the definition of nonattainment area, reflecting the redesignation of Kansas City to attainment for ozone on June 23, 1992 (57 FR 27939). Once an area is redesignated to attainment, nonattainment NSR requirements are no longer required. The attainment area is then subject to prevention of significant deterioration requirements instead of the NSR program. Missouri has amended its rules consistent with these requirements.

EPA Action

EPA is soliciting public comments on all aspects of this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting timely written comments to the address above.

Nothing in this action should be construed as permitting or 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, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

SIP approvals under sections 110 and 301, 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, EPA certifies 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 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)).

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). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12886 which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Lead.

Authority: 42 U.S.C. 7401–7671q

Dated: January 21, 1994.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 94–2589 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–F

[2] EPA may grant such a limited approval under section 110(k)(3) of the Act, in light of the general authority delegated to EPA under section 301(a) of the Act to take actions necessary to carryout the purposes of the Act.

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40 CFR Part 52

[MO–16–1–6022; FRL–4833–8]

Clean Air Act Approval and Promulgation of Commitment to Adopt a Rule for Reasonably Available Control Technology for Oxides of Nitrogen for Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to conditionally approve revisions to the State implementation plan (SIP) for ozone submitted by the state of Missouri. This portion of the implementation plan was submitted by the state to satisfy Clean Air Act (CAA) requirements for adoption of rules for application of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) in the St. Louis metropolitan area. In this document, EPA is proposing action, not on the rules themselves, but on a commitment by the state to submit the NO_X RACT rules at a later date.

DATES: Comments on this proposed action must be received in writing by March 7, 1994.

ADDRESSES: Comments should be addressed to Josh Tapp at the Region VII address. Copies of the state's submittal and other information are available for inspection during normal business hours at the following location: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Josh Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for the reduction of oxides of NO_x emissions through RACT are set out in section 182(f) of the CAA. Section 182(f) requirements are described by EPA in a notice, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620). The November 25, 1992, notice should be referred to for further information on the NO_x requirements.

Section 182(f) of the CAA requires states within moderate or above ozone nonattainment areas (the St. Louis metropolitan area is a moderate area) or the ozone transport region to apply the same requirements to major stationary sources of NO_x ("major" as defined in sections 302 and 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOC). For more information on what constitutes a major source, see section 2 of the NO_x Supplement to the General Preamble (57 FR 55622).

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a control techniques guideline (CTG) document) by November 15, 1992. There were no NO_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment. States, in their RACT rules, are expected to require final installation of the actual NO_x controls by May 31, 1995, from those sources for which installation by that date is practicable. (See 57 FR at 55623.)

Under section 110(k)(4), the Administrator may approve a plan revision based on a commitment from the state to adopt specific enforceable measures by a specified date, but not later than one year after the date of EPA approval of the plan revision that incorporated that commitment. Refer to the NO_x Supplement to the General Preamble (57 FR 55622–55623) for details of this conditional approval with respect to the NO_x requirements.

The memorandums of July 22, 1992, and September 16, 1992, from Deputy Assistant Administrator Michael Shapiro concerning the SIP submittals due November 15, 1992, also outline general requirements for conditional approval actions.

II. This Action

A. Analysis of State Submission

As noted above, section 110(k)(4) of the CAA allows EPA to accept a commitment from states to adopt portions of SIPs rather than the SIP itself. For example, EPA may, in certain cases, accept a commitment from states to adopt NO_x RACT rules rather than the NO_x RACT rule itself. The NO_x Supplement to the General Preamble (57 FR 55623) and the aforementioned memorandums of July 22, 1992, and September 16, 1992, outline EPA's criteria for acceptability of committal SIPs for the NO_x RACT rules. The following is a statement of the criteria and an analysis of how Missouri's submittal meets these criteria.

1. The State must provide a description of the reason for the committal SIP versus a full SIP submittal.

A discussion of the reasoning behind the State's submission of an NO_x RACT committal SIP is provided on page 2 of the SIP submission. Missouri's decision to submit an NO_x RACT committal SIP instead of a full SIP submittal was twofold. First, urban airshed modeling (UAM) will identify the role of NO_x emissions in ozone formation but the modeling exercise will not be completed until 1994, consistent with the UAM submission date. Since it was not clear to the Missouri Department of Natural Resources (MDNR) on November 15, 1992, that NO_x emission reductions would be effective in reducing ozone concentrations, it was not practical for Missouri to submit NO_x RACT regulations at that time. Secondly, EPA failed to provide states with NO_x RACT guidance by November 15, 1992, making the development of a full NO_x RACT SIP by that date an ambiguous target for Missouri.

However, in the committal SIP, Missouri has committed to submit NO_x RACT regulations by October 31, 1994, unless St. Louis qualifies for an exemption pursuant to section 182(f) of the Act. Missouri is also aware that the Act requires NO_x RACT to be implemented by May 1995. The committal SIP schedule is consistent with this requirement.

2. The State must provide documentation that credible photochemical grid modeling is not available or that such modeling did not consider the effects of NO_x reductions.

This documentation is provided on page 2 of the committal SIP. According to MDNR, UAM was previously conducted in St. Louis in 1985; however, at that time the UAM was not used to focus on the effect of NO_x control strategies in St. Louis. The only UAM exercise available to examine NO_x emissions will be the current exercise which is being conducted pursuant to the requirements of section 182(j) of the Act.

3. The State must identify the resources which are available to complete UAM modeling.

Pages 10 through 13 describe the resources being utilized to complete the enormous task of UAM-based modeling demonstration. There are ten separate organizations and agencies that MDNR and the Illinois Environmental Protection Agency have organized into two committees to provide input to the UAM. The committees are the "UAM Policy and Oversight Committee" and the "Ozone Technical Subcommittee." Additionally, MDNR provided a list of the individuals responsible for conducting certain portions of the UAM demonstration and a list of the equipment which has been made available to execute the model and the post processing analysis. EPA believes that the State has provided an adequate demonstration of resources available.

4. The State must provide a schedule outlining the milestones that have been and will be achieved towards the completion of the NO_x RACT rules. The schedule must include a date for final submittal of rules to EPA. The date for submitting the final rules to EPA must be no later than 12 months after EPA's final approval of the committal SIP.

Page 6 of the SIP submission contains an enforceable schedule. Critical dates included in this schedule are the UAM final submission date (November 15, 1993) and submittal of final NO_x RACT regulations to EPA (October 31, 1994). Missouri failed to submit the final UAM modeling exercise by November 15, 1993. However, EPA Region VII is working closely with the state on this submission. We are encouraged by Missouri's progress and we believe that the submission of the final NO_x RACT regulations (if necessary) will not be delayed beyond October 31, 1994.

It is important to note that MDNR has committed to submit the final NO_x RACT regulations six months before implementation of NO_x RACT is required by the Act. It should be noted that further failure by the state to meet the applicable milestones listed in the NO_x RACT schedule contained in the SIP submission will affect EPA's determination to issue final conditional approval.

EPA is proposing to approve Missouri's commitment to adopt NO_x RACT rules for the St. Louis area because it meets the requirements of section 110(k)(4) of the CAA and conforms to the policy in the NO_x Supplement to the General Preamble (cited above), and the memorandums from Deputy Assistant Administrator Michael Shapiro of July 22, 1992, and

September 16, 1992, concerning the SIP submittals due November 15, 1992.

B. Procedural Background

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing. Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2). Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing. The state of Missouri held a public hearing on April 29, 1993, on the commitment to adopt NO_X RACT rules for St. Louis. Following the public hearing, the commitment was adopted by the state and signed by the Director of MDNR on May 27, 1993, and submitted to EPA on June 14, 1993, as a revision to the SIP.

C. RACT Determination and Implementation

States—including those for which EPA approves a commitment to adopt an NO_X RACT rule—are expected to require final installation of the actual NO_X controls by May 31, 1995, from sources for which installation by that date is practicable. The NO_X Supplement to the General Preamble (57 FR 55623) contains a detailed discussion of EPA's interpretation of the RACT requirement.

III. Implications of This Action

EPA is proposing to approve the commitment for adoption of NO_X RACT rule(s) as an SIP revision submitted to EPA for the St. Louis area June 14, 1993. Section 110(k)(4) of the Act provides that where EPA takes final action to approve a commitment to submit an SIP or portion of an SIP, the state must fulfill that commitment (i.e., submit the required SIP or portion thereof) within one year following EPA approval. If the state does not fulfill its commitment by submitting the SIP or revision to EPA within that year, the Act requires that the SIP be disapproved. If EPA disapproves the SIP for failing to meet the commitment, there are several additional consequences. As provided under section 179 of the Act, the state of Missouri would have up to 18 months after a final SIP disapproval to correct the deficiencies that are the subject of the disapproval, before EPA is required to impose either the highway funding restriction or the requirement for two-to-one new source review offsets. If the state has not corrected its deficiencies within six months after imposing the first sanction, EPA must impose the second sanction. Any sanction EPA imposes must remain in place until EPA determines that the state has come into compliance. If EPA ultimately disapproves all or part of the SIP submittal for the St. Louis nonattainment area and the state of Missouri fails to correct the deficiency within 18 months of such disapproval, EPA anticipates that the first sanction it would impose would be the two-to-one offset requirement. Note also that any final disapproval would trigger the 24-month clock for EPA to impose a federal implementation plan as provided under section 110(c)(1) of the Act.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. EPA is particularly interested in comments addressing the adequacy of the state's schedule for submission of NO_X RACT rules. As indicated at the outset of this notice, EPA will consider any comments received by March 7, 1994.

V. Executive Order 12866

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). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

VI. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant 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.

Conditional approvals of SIP submittals 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 affected small entities. 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)).

If the conditional approval is converted to a disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities, because it does not remove existing state requirements or substitute a new federal requirement.

Nothing in this action should be construed as permitting or 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, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VII. Miscellaneous

Proposed Rulemaking Action

EPA proposes to conditionally approve this plan as a part of Missouri's SIP.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 20, 1994.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 94–2590 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[VA 23–1–5884; A–1–FRL–4834–1]

Approval and Promulgation of Implementation Plans; Commonwealth of Virginia; Stage II Vapor Recovery Regulations for Gasoline Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking action to propose approval of Title 120–01 of the Commonwealth of Virginia's Regulations for the Control and Abatement of Air Pollution, Part IV, Rule 4–37 (Petroleum Liquid Storage and Transfer Operations), §§ 120–04–3701 to 120–04–3715 and Appendices P and S, as a revision to the Virginia State Implementation Plan (SIP) for ozone. The effective date for Virginia's State regulation is January 1, 1993.

On November 5, 1992, the Commonwealth of Virginia submitted a SIP revision request to EPA to satisfy the Clean Air Act as amended in 1990 (the Act), which requires all ozone nonattainment areas classified as moderate or worse to require owners and operators of gasoline dispensing facilities to install and operate Stage II vapor recovery equipment. This revision applies to the Virginia portion of the Washington, DC ozone nonattainment area and the Richmond ozone nonattainment area. This revision also contains several other minor amendments to Virginia's Rule 4–37. Although these changes do not necessarily pertain to the Stage II program, they will affect the non-Stage II requirements previously established by this proposed rule.

DATES: Comments must be received by March 7, 1994.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; and the Virginia Department of Environmental Quality, P.O. Box 10089, Richmond Virginia, 23240.

FOR FURTHER INFORMATION CONTACT: Brian K. Rehn, at (215) 597–4554.

SUPPLEMENTARY INFORMATION: Under section 182(b)(3) of the Act, EPA was required to issue guidance as to the effectiveness of Stage II systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement.[1] In addition, on April 16, 1992, EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498). The guidance documents and the General Preamble interpret the Stage II statutory requirement and indicate what EPA believes a State submittal needs to include to meet that requirement.

The Virginia portion of the Washington, DC metropolitan statistical area (MSA) is designated nonattainment for ozone and classified as serious. The Richmond MSA is also designated nonattainment for ozone, and is classified as moderate. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.347. Under section 182(b)(3) of the Act, Virginia was required to submit Stage II vapor recovery rules for these areas by November 15, 1992.

On November 5, 1992, the Virginia Department of Air Pollution Control, now known as the Department of Environmental Quality (DEQ), submitted to EPA Stage II vapor recovery rules for the Northern Virginia and Richmond areas that were adopted by the Commonwealth on October 5, 1992. By today's action, EPA is proposing to approve this submittal as meeting the requirements of section 182(b)(3) of the Act. EPA has reviewed the Commonwealth's submittal against the statutory requirements and for consistency with EPA guidance. A summary of EPA's analysis is provided below; in addition, a more detailed analysis of the State submittal is contained in a technical support document for this action, dated September 15, 1993, which is available from the Region III Office, at the address listed in the **ADDRESSES** section above.

Regulatory Evaluation

I. Applicability

Under section 182(b)(3) of the Act, states were required by November 15, 1992 to adopt regulations requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. Virginia has adopted Stage II measures for the Northern Virginia (Virginia portion of the Washington DC MSA) and the Richmond areas, as required by the Act.

Section 182(b)(3)(A) of the Act specifies that Stage II controls must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), any facility that dispenses more than 50,000 gallons of gasoline per month. The Commonwealth has adopted a general applicability requirement for those gasoline dispensing facilities having an average monthly throughput (as described below) of over 10,000 gallons per month and those independent small business marketers dispensing over 50,000 gallons per month.

In accordance with EPA's Enforcement Guidance and the General Preamble (57 FR 13514), the Commonwealth has provided that the gallons of gasoline dispensed per month will be the "average monthly throughput". The Commonwealth has defined this term in § 120–04–3702 of Rule 4–37 as the volume dispensed per month for the two most recent consecutive calendar years, or some other two year period that is more representative of normal operations. Downtime shall not be included when determining average monthly throughput. The board of the DEQ may allow the use of an alternative time period for calculation of average monthly throughput if it determines that such a period is more representative of normal operations at that facility.

The Commonwealth has specified that the Stage II requirements set forth in Rule 4–37 apply to all gasoline dispensing facilities with an average monthly throughput of over 10,000 gallons (and ISBMs with average monthly throughput of 50,000 gallons or more), including retail outlets and fleet fueling facilities. Gasoline dispensing devices that exclusively refuel marine vessels, aircraft, farm equipment, and emergency vehicles are exempted under Virginia's Stage II regulation. The Commonwealth has determined that these exempted facilities will generally fall below the applicability threshold of 10,000 gallons per month. Additionally, many of the facilities that otherwise fall within these exempted categories are ineligible for exemption because they do not exclusively refuel vehicles within these categories.

Section 324(c) of the Act establishes a statutory definition of an ISBM, which is fully set forth in the technical support document for this action. The Commonwealth has adopted the

[1] These two documents are entitled "Technical Guidance-Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA–450/3–91–022) and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs."

statutory definition of an ISBM in § 120–04–3702 of its regulations. For clarity on the definition of an ISBM, the public may refer to the technical support document for this action or the Clean Air Act.

II. Implementation of Stage II

Virginia adopted its regulations on October 5, 1992, and submitted them to EPA as a SIP revision on November 5, 1992. The Act specifies the times by which certain facilities must comply with a State's Stage II regulation, calculated from the time of State adoption of the regulation. For facilities that are not owned or operated by an ISBM, the statutory deadlines are: (1) 6 months from the time of State adoption (i.e. April 5, 1993 for Virginia) of the regulation for facilities for which construction began after November 15, 1990, (2) 1 year from the time of State adoption of the regulation (i.e. October 5, 1993 for Virginia) for facilities that dispense over 100,000 gallons of gasoline per month; and (3) 2 years from the time of State adoption (i.e. October 5, 1994 for Virginia) for all other facilities.

The Commonwealth's regulation provides that subject facilities must install and operate Stage II: (1) Upon start-up, for facilities that began construction after January 1, 1993; (2) by May 15, 1993, for existing facilities that began construction after November 15, 1990 and before January 1, 1993; (3) by November 15, 1993, for existing facilities that began construction before November 15, 1990 and have an average monthly throughput of over 100,000 gallons per month; and (4) by November 15, 1994, for all other subject existing facilities which began actual construction before November 15, 1990.

Section 182(b)(3) of the Act provides that a State's timetable for implementation must begin with the date of adoption of the Stage II rules, and then defines adoption to mean the date the State adopts the requirements for installation and operation of Stage II equipment. Although Virginia adopted its Stage II regulations on October 5, 1992, EPA believes that it can approve Virginia's treatment of the adoption date as being November 15, 1992 under the limited circumstances presented in this submittal, as explained below.

EPA is proposing to approve Virginia's implementation schedule which began on November 15, 1992 for several reasons. First, EPA recognizes that the date by which the Commonwealth was required to adopt Stage II regulations matches the date by which the Commonwealth was required to submit the regulations to EPA. Thus, Virginia could have waited to adopt the Stage II regulations on November 15, 1992 and still have met the required submittal date. Second, the implementation date established by the Commonwealth, November 15, 1992, began shortly after the adoption date of the regulation. Third, the Commonwealth would have a limited ability to remedy this deficiency. If Virginia chose to withdraw it SIP revision and readopt this Stage II requirement, the time table could be based upon a date that is later than November 15, 1992. Finally, EPA believes the Virginia rule otherwise fulfills the Stage II requirements and will provide substantial air quality benefits to the regulated areas. Therefore, EPA believes it is in the public interest to approve and make federally enforceable Virginia's Stage II regulation at the earliest time feasible.

III. Additional Program Requirements

Consistent with EPA's guidance, the Commonwealth requires that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiency by using a system certified by the California Air Resources Board. Additionally, Virginia requires that Stage II systems employed to comply with this program utilize coaxial vapor recovery hose check valves that do not impede the performance of Stage II functional tests. The Commonwealth requires subject facilities to verify proper installation and function of Stage II equipment through use of a liquid blockage test, a vapor space tie test and a pressure decay/leak test prior to system operation. Additionally, every five years, or upon major modification of a facility (i.e. 75 percent or more equipment change), or if requested after an inspection by the Commonwealth that shows evidence of a system malfunction, the source must conduct a liquid blockage test and a pressure decay/leak test.

With respect to recordkeeping, the Commonwealth has adopted those items recommended in EPA's guidance and specifies that sources subject to Stage II must make the following documents available upon request: (1) A license or permit to install and operate a Stage II system; (2) results of verification tests; (3) equipment maintenance and compliance file logs indicating compliance with manufacturer's specifications and requirements; and (4) training certification files. In addition, Virginia requires facilities that are not subject to Stage II to maintain files containing the gasoline throughput of the facility and make them available upon request by the DEQ.

Virginia has indicated that it plans to conduct a compliance inspection for each subject facility at least one time per year with follow-up inspections at noncomplying facilities. These inspections will include both visual and functional equipment inspections. For a detailed listing of the tests to be conducted at the annual inspections, see the technical support document for this action. The Commonwealth has authority to enforce violations of the Stage II requirements, as set forth in Rule 4–37 and Virginia's policies and procedures document entitled, "Procedures for Implementation of Regulations Covering Stage II Vapor Recovery Systems for Gasoline Dispensing Facilities" (AQP–9). This enforcement authority is found in § 10.1–1307.3 of the Code of Virginia. For further information on Virginia's enforcement authority and penalty limits for this program, please refer to the technical support document for this action.

IV. Regulatory Changes Affecting Other Petroleum Storage and Transfer Operations

On October 5, 1992, Virginia's State Air Pollution Control Board adopted an amended version of its regulations entitled "Regulations for the Control and Abatement of Air Pollution"; VR 120–01, Rule 4 37, §§ 120–04–3701 to 120–04–3715 (effective date—January 1, 1993). Virginia submitted this revised rule to EPA on November 5, 1992 for the purposes of satisfying the Stage II requirements set forth in the Act. However, Virginia's Rule 4–37 consolidates Stage II vapor recovery requirements for gasoline dispensing facilities with existing regulations that establish Reasonably Available Control Technology (RACT) related to petroleum liquid storage and transfer categories, including: Stage I vapor recovery, floating and fixed roof petroleum storage tanks, and gasoline bulk plants.

Several changes made to Rule 4–37 for the purposes of incorporating Stage II requirements directly affect the other petroleum transfer and storage requirements covered by Rule 4–37. Section 120–04–3701(D) of Rule 4–37 places, for the first time, the burden of proof for eligibility for exemption from any portion of the rule on the owner. Facilities seeking compliance exemptions (based upon throughput thresholds) for any petroleum storage and transfer operation covered by Rule 4–37 are now required to retain records to prove their exempt status.

Section 120–04–3703(D)(3) of Rule 4–37 has been revised to change the

applicability requirement for vapor recovery controls at gasoline loading bulk plants. The applicability exemption for facilities with average daily throughput of less than 4,000 gallons is now based upon a thirty day rolling average, instead of total average throughput. Average daily throughput must now be calculated for the two most recent years, for which time if this value exceeds 4,000 gallons per day, the facility is subject to the vapor recovery requirements for bulk plants.

V. Regulatory Changes Affecting VOC Control Areas

The Commonwealth has revised Appendix P of Rule 4–37 to separately list nitrogen oxides (NOx) emissions control areas, in addition to listing VOC emissions control areas. The list of VOC emissions control areas submitted in this November 5, 1992 revision is unchanged from that of the May 10, 1991 SIP revision submitted to satisfy the requirements of section 182(a)(2)(A) of the Act—otherwise known as "RACT fix-ups". Additionally, a list of NOx emission control areas identical to the VOC emission control areas list has been added.

Proposed Action

Because EPA believes that the State has adopted a Stage II regulation in accordance with section 182(b)(3) of the Act, as interpreted in EPA's guidance, EPA is proposing to approve Title 120–01 of the Commonwealth of Virginia's Regulations for the Control and Abatement of Air Pollution, part IV, Rule 4–37 (Petroleum Liquid Storage and Transfer Operations), §§ 120–04–3701 to 120–04–3715 and Appendices P and S, as a revision to the Virginia State Implementation Plan (SIP) for ozone as meeting the requirements of sections 182(b)(3).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIP's 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).

This proposed approval action for Stage II gasoline vapor recovery for Virginia 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). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of 2 years (54 FR 2222). The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request is still applicable under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

The Administrator's decision to approve or disapprove Virginia's Stage II gasoline vapor recovery SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K), 110(a)(3), and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Air pollution control; Hydrocarbons; Incorporation by reference; Intergovernmental relations; Nitrogen oxides; Ozone; Reporting and recordkeeping requirements; Volatile Organic Compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 5, 1993.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 94–2591 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket Nos. MC–93–25 and MC–93–30]

RIN 2125–AD22

Qualification of Drivers; Hearing Deficiencies; Waivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension and reopening of comment periods.

SUMMARY: The FHWA announces the extension of the time during which it will accept comments to Docket MC–93–30 and the reopening of Docket MC–93–25. Comments to Docket MC–93–25, which closed on January 14, 1994, will be accepted until April 5, 1994. Comments to Docket MC–93–30 will be accepted until April 15, 1994, an extension of the original February 14, 1994, deadline.

DATES: Written, signed comments must be received on or before April 5, 1994, for Docket MC–93–25 and on or before April 15, 1994, for Docket MC–93–30.

ADDRESSES: Submit all comments to the Federal Highway Administration, Docket MC–93–25 and/or MC–93–30, Office of Chief Counsel/HCC–10, 400 Seventh Street, SW., room 4232, Washington, DC 20590. Comments may be examined at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Persons desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a special telephone number, 1–800–832–5660, for inquiries about this notice, the hearing deficiencies advance notice of proposed rulemaking (ANPRM), and the hearing deficiencies study. The TDD number is 1–800–699–7828. Messages may be left on both telephone numbers 24 hours a day.

SUPPLEMENTARY INFORMATION: On December 15, 1993, the FHWA published an ANPRM (Docket MC–93–30) that requested comments on whether there is a need to amend the Agency's driver qualification requirements relating to hearing. 58 FR 65634. The current Federal hearing standard is at 49 CFR 391.41(b)(11). The FHWA believes that a review of the hearing standard is necessary to assess its continued relevance and the effect advances in medical science and technology may have on it. Such

advances may lead to amending the current standard.

The FHWA simultaneously published a notice of its intent to initiate a study examining the relationship between hearing deficiencies and safe operation of commercial motor vehicles, and sought comments on that notice (Docket MC–93–25). 58 FR 65638.

The public was notified that the FHWA would accept comments on both notices for the periods listed above.

Advocates for Highway and Auto Safety (AHAS), an organization with an expressed interest in highway safety issues, subsequently requested that the FHWA extend each comment period by 60 days. The AHAS stated it needed additional time to gather information about the history of the hearing standard and the effect that hearing deficiencies may have on safety.

The FHWA is mindful of the need for all interested parties to have enough time to prepare thoughtful comments. The FHWA therefore is extending the deadline for comments to Docket MC–93–30 an additional 60 days and is reopening Docket MC–93–25 for 60 days. As indicated in the Rulemaking Analyses and Notices section of the ANPRM, all comments received before the close of business on the comment closing dates indicated above will be considered and will be available for examination in the dockets at the above address. Comments received after the closing dates will be filed in the dockets and will be considered to the extent practicable. In addition to late comments, the FHWA will continue to file relevant information in the dockets as it becomes available after the comment closing dates, and interested persons should continue to examine the dockets for new material.

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

Issued on: January 28, 1994.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 94–2586 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC32

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Callippe Silverspot Butterfly, Behren's Silverspot Butterfly, and the Alameda Whipsnake From Northern and Central California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the callippe silverspot butterfly (*Speyeria callippe callippe*), Behren's silverspot butterfly (*Speyeria zerene behrensii*), and the Alameda whipsnake (*Masticophis lateralis euryxanthus*) as endangered pursuant to the Endangered Species Act of 1973, as amended (Act). The three species are found in northern and central California.

These animals and the foodplants of the larval butterflies occur on private, county, and State land, and are imperiled by one or more of the following: overcollecting, commercial and residential development, competition from alien plants, inappropriate levels of livestock grazing, off-road vehicle use, trampling by hikers and livestock, and perhaps stochastic (i.e., random) extinction by virtue of the small, isolated nature of the remaining populations. This proposal, if made final, would implement protection provided by the Act for these animals. Critical habitat is not being proposed.

DATES: Comments from all interested parties must be received by April 5, 1994. Public hearing requests must be received by March 21, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, room E–1823, Sacramento, California 95825. Comments and materials received will be available for inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Nagano at the above address or by telephone (916/978–4866).

SUPPLEMENTARY INFORMATION:

Background

The callippe silverspot butterfly (*Speyeria callippe callippe*) is a member of the Nymphalidae family. The animal was described by J.A. Boisduval (1852) from specimens collected during the month of June by Pierre Lorquin in San Francisco, California (dos Passos and Grey 1947). Arnold (1983, 1985) conducted taxonomic studies on the subspecies of *Speyeria callippe* using wing characters. His investigation concluded that the species consisted of 3 subspecies rather than the widely recognized and accepted 16 subspecies. Based on his study, the range of *Speyeria callippe callippe* would extend from Oregon to southern California and east into the Great Basin (Arnold 1985). A comprehensive analysis of this species found that the original classification remains more appropriate and that subspecies *callippe* is restricted to the northern San Francisco Bay region (Hammond 1986, Murphy undated). Hammond determined that the analysis by Arnold used invalid morphological characteristics. The Service recognizes the conclusions of Hammond (1986) and the distribution of the callippe silverspot butterfly as described by Sterling Mattoon (Sterling Mattoon, amateur lepidopterist, *in litt.*, 1991).

The callippe silverspot butterfly is a medium-sized butterfly with a wingspan of approximately 55 millimeters (2.17 inches). The upper wings are brown with extensive black spots and lines, and the basal areas are extremely melanic (dark-colored). The undersides are brown, orange-brown, and tan with black lines and distinctive black and bright silver spots. The basal areas of the wings and body are densely pubescent (hairy). The discal area on the upper wings of the callippe silverspot butterfly is darker and more extensively yellow on the hindwings than the related Lilian's silverspot butterfly (*Speyeria callippe liliana*). The callippe silverspot butterfly is larger and has a darker ground color with more melanic areas on the basal areas of the wings than Comstock's silverspot butterfly (*Speyeria callippe comstocki*).

The callippe silverspot butterfly is found in native grassland and adjacent habitats (Steiner 1990; Mattoon, *in litt.*, 1991; Thomas Reid Associates 1982). The females lay their eggs on the dry remains of the larval foodplant, Johnny jump-up (*Viola pedunculata*), or on the surrounding debris (Arnold 1981, Thomas Reid Associates 1982). Upon hatching after about a week, the larvae eat their egg shells. The caterpillars wander a short distance and spin a silk pad upon which they spend the summer and winter. The larvae are dark-colored with many branching sharp spines on the back. Upon termination of diapause in the spring, the caterpillars

immediately seek out the foodplant. In May, after having gone through five instars (i.e., skin sheddings), the larvae form pupa within a chamber of leaves that they have drawn together with silk. The adults emerge in about 2 weeks and live for approximately 3 weeks. Depending upon environmental conditions, the flight period of this single-brooded butterfly ranges from mid-May to late July. The adults exhibit hilltopping behavior, a phenomenon in which males and females seek a topographic summit to mate (Shields 1967).

The callippe silverspot butterfly was known historically to occur in seven populations in the San Francisco Bay region. This animal does not occur north of the Golden Gate or Carquinez Straits (Mattoon, *in litt.*, 1991; Paul Opler, U.S. Fish and Wildlife Service, pers. comm., 1992). The historic range of the callippe silverspot butterfly includes the inner coast range on the eastern shore of San Francisco Bay from northwestern Contra Costa County south to the Castro Valley area in Alameda County. On the west side of the Bay, it ranged from San Francisco south to the vicinity of La Honda in San Mateo County. Five colonies, including the one located at Twin Peaks in San Francisco, were extirpated. The remaining colonies exist on mostly privately owned land, but also on city, county, and State owned land. Currently, extant colonies are known only from San Bruno Mountain in San Mateo County and a city park (Mattoon, *in litt.*, 1991).

Behren's silverspot butterfly (*Speyeria zerene behrensii*) is a member of the Nymphalidae family. William H. Edwards described this taxon in 1869 based on an adult male collected by an unknown lepidopterist in Mendocino, California (dos Passos and Grey 1947, Edwards 1869). It is a medium-sized butterfly with a wingspan of approximately 55 millimeters (2.17 inches). The upper surfaces are golden brown with numerous black spots and lines. The undersides are brown, orange-brown, and tan with black lines and distinctive silver and black spots. The basal areas of the wings and body are densely pubescent.

Behren's silverspot butterfly is similar in appearance to two other subspecies of *Speyeria zerene* (Hammond 1980, Howe 1975, McCorkle and Hammond 1988). The threatened Oregon silverspot butterfly (*Speyeria zerene hippolyta*) has lighter basal suffusion on the upper sides of the wings than Behren's silverspot butterfly. Another related taxon, the endangered Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), is larger in size and also lighter in color than *Speyeria zerene behrensii*.

Behren's silverspot butterfly inhabits coastal terrace prairie habitat. The life history of Behren's silverspot butterfly is similar to the callippe silverspot butterfly. The females lay their eggs in the debris and dried stems of the larval foodplant, violet (*Viola adunca*) (McCorkle 1980, McCorkle and Hammond 1988). Upon hatching, the caterpillars wander a short distance and spin a silk pad upon which they pass the fall and winter. The larvae are dark-colored with many branching sharp spines on the back. The caterpillars immediately seek out the foodplant upon termination of diapause in the spring. Each larva then forms a pupa within a chamber of leaves that they have drawn together with silk. The adults emerge in about 2 weeks and live for approximately 3 weeks. Depending upon environmental conditions, the flight period of this single brooded butterfly ranges from July to August. Adult males patrol open areas in search of newly emerged females.

The historic range of Behren's silverspot butterfly extends from the mouth of the Russian River in Sonoma County northward along the immediate coast to southern Mendocino County in the vicinity of Point Arena (Mattoon, *in litt.*, 1989). The six historic populations were known to occur in coastal terrace prairie and adjacent habitats. The single extant population, which was recently discovered, occurs on privately owned land near Point Arena in Mendocino County.

The Alameda whipsnake (*Masticophis lateralis euryxanthus*) is a member of the Colubridae family (Morey and Bioassay 1988). It was described by William Reimer (1954) from a specimen collected in Berkeley Hills, Alameda County, California. The common name "Alameda whipsnake" is utilized in this proposed rule instead of "Alameda striped racer" that was used in the November 21, 1991, Animal Notice of Review (56 FR 58804). "Whipsnake" is a widely recognized common name for other members of the genus *Masticophis* (Stebbins 1985). The Alameda whipsnake is a slender, fast moving diurnal snake with a narrow neck and a relatively broad head with large eyes. The dorsal surface is colored sooty black or dark brown with a distinct yellow-orange stripe down each side. The anterior portions of the ventral surface are orange-rufous colored, the midsection is cream colored, and the posterior and tail are pinkish. The adults reach a length of 91 to 122 centimeters (3 to 4 feet). This subspecies is distinguished from the more common California whipsnake (*M. l. lateralis*) by its comparatively wide orange stripes, which run laterally down each side.

The Alameda whipsnake inhabits the inner coast range in western and central Contra Costa and Alameda Counties (McGinnis 1992). One of the two major populations extends from approximately El Sorbante south to about Hayward. The second is found from Clayton/Mount Diablo southeast to the Vasco Road area. It occurs mostly on privately owned land, but also occurs on State and county land.

The Alameda whipsnake usually is found in northern coastal scrub or chaparral, but it also may occur in adjacent habitats. This extremely fast-moving, lizard-eating specialist holds its head high off the ground in a cobra-like manner to peer over grass or rocks at potential prey. The Alameda whipsnake has been found to exhibit territorial behavior, possessing home ranges varying in size from 2 to 8.7 hectares (5.0 to 21.5 acres). Some animals have been recorded to have moved over 1 mile while traversing their areas (McGinnis 1992). The life history of the Alameda whipsnake is not well understood (Goldberg 1975, Hammerson 1978).

A proposed rule to list the callippe silverspot butterfly as endangered with critical habitat was published on July 3, 1978 (43 FR 28938). The critical habitat portion of that proposal was withdrawn by the Service on March 6, 1979 (44 FR 12382), because of procedural and other substantive changes in the Endangered Species Act by the 1978 amendments. The Service again published a proposed rule to designate critical habitat for the callippe silverspot butterfly on March 28, 1980 (45 FR 20503). The proposed rule to list the callippe silverspot butterfly was withdrawn on September 30, 1980 (45 FR 64607), because the 1978 Endangered Species Act amendments required that the final rule for the species be completed within 2 years after the date of publication proposing to list it as endangered or threatened.

The callippe silverspot butterfly was listed as a category 2 candidate species in the May 22, 1984 (49 FR 21664), and January 6, 1989 (54 FR 554), Animal Notices of Review. This category includes species that may be appropriate to list as endangered or threatened, but for which conclusive data on their biological vulnerability is not currently available to support proposed rules. The species was listed as a category 1 candidate species in the November 21, 1991 (56 FR 58804), Animal Notice of Review because of increased threats from overcollecting

(see Factor B in the "Summary of Factors Affecting the Species" section). This category includes taxa for which the Service has on file enough substantial information on biological vulnerability and threats to propose listing them as endangered or threatened.

Ms. Dee Warenycia petitioned the Service to list the callippe silverspot butterfly as an endangered species in a letter dated January 14, 1991, which was received on January 22, 1991. The Service completed a status review and determined that enough information exists to propose the species for listing. This proposal constitutes the final finding for the petitioned action.

On March 20, 1975, Behren's silverspot butterfly was listed as 1 of 42 insects whose status was being reviewed for listing as either endangered or threatened by the Service (40 FR 12691). This insect was listed as a category 2 species in the May 22, 1984 (49 FR 21664), and January 6, 1989 (54 FR 554), Animal Notices of Review. Dr. Dennis Murphy of Stanford University petitioned the Service to list Behren's silverspot butterfly as an endangered species in a letter dated June 28, 1989, which was received on June 29, 1989. The Service determined that the petition contained substantial information indicating that the requested action may be warranted and published notice of the 90-day finding on November 1, 1990 (55 FR 46080). The Service did not receive any new information in response to the November 1, 1990, notice. However, the species was listed as a category 1 species in the November 21, 1991 (56 FR 58804), Animal Notice of Review on the basis of significant increases in habitat loss and threats occurring throughout its range. This proposal constitutes the final finding for the petitioned action.

The Alameda whipsnake (as the Alameda striped racer) was listed as a category 2 candidate species in the September 18, 1985 (50 FR 37958), Vertebrate Wildlife Notice of Review. In the January 6, 1989 (54 FR 554), Animal Notice of Review, the Service again included the Alameda whipsnake as a category 2 candidate species and solicited additional information on its status. The November 21, 1991 (56 FR 58804), Animal Notice of Review included the Alameda whipsnake as a category 1 candidate species on the basis of significant increases in habitat loss and threats occurring throughout its range.

This proposal to list the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake is based on the best available scientific and commercial information, various scientific papers and unpublished reports available to the Service, and information gathered from various scientists specializing in these taxa, especially Mr. Sterling Mattoon and Mr. John Steiner.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. Species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the callippe silverspot butterfly (*Speyeria callippe callippe*), Behren's silverspot butterfly (*Speyeria zerene behrensii*), and Alameda whipsnake (*Masticophis lateralis euryxanthus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* The primary cause of the declines of the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake is the loss of habitat from human activities. These species are imperiled by the current and potential future destruction and alteration of their habitats due to off-road vehicle use, trampling by hikers and equestrians, unsuitable levels of livestock grazing, and invasive exotic vegetation. The Alameda whipsnake and Behren's silverspot butterfly also are imperiled by residential and commercial development. Off-road vehicles and human or horse trampling pose threats to the colonies of the two butterfly species as these activities could crush the foodplants of the larvae or the adult nectar sources.

The callippe silverspot butterfly was once more widespread in the San Francisco Bay Area. At least five populations of this species have been eliminated by urban development and other causes. The species currently is known only from two sites in San Mateo and Alameda Counties. One of the known extant populations of the callippe silverspot butterfly is located in a city park. This colony is small and may be imperiled by human-induced and natural causes (Mattoon, *in litt.*, 1991). The other known extant population of the callippe silverspot butterfly is found on San Bruno Mountain in San Mateo County (Mattoon, *in litt.*, 1991; Thomas Reid Associates 1982). Although the majority of the natural areas on San Bruno Mountain have been preserved and will remain undeveloped in perpetuity, collection of specimens by amateur lepidopterists poses a threat, as discussed under Factor B.

Behren's silverspot butterfly has been extirpated from a significant portion of its former range, which extended from the mouth of the Russian River in Sonoma County north to southern Mendocino County. One of the six known historic colonies was eliminated by a housing development (Mattoon, *in litt.*, 1989). No specimens have been observed at the other historic colonies since 1987. Currently, this animal is known only from a recently discovered locality northwest of the town of Point Arena in Mendocino County (Sally DeBecker, Pacific Gas and Electric, pers. comm., 1990). The site is subject to grazing by livestock. Although no plans have been proposed for the site, urban development is occurring in the area.

The central and western portions of Alameda and Contra Costa Counties are highly urbanized. Housing, commercial, and road construction have greatly reduced the amount of suitable habitat available for the Alameda whipsnake. McGinnis (1992) listed 60 localities for this species; 25 of them are considered to represent extant populations. A proposed reservoir northeast of Lake Chabot in Alameda County would result in the elimination of suitable habitat at the site (McGinnis 1992). Flooding at the proposed Los Vaqueros Reservoir in eastern Contra Costa County would not impact the reptile; however, proposed quarrying operations for the production of material for the dam and the inducement of development would result in habitat destruction (McGinnis 1990, 1992). Numerous housing developments currently threaten other populations. Within the City of Oakland, 6 residential projects have been built and 10 more are proposed in Alameda whipsnake habitat (Charles Bryant, Oakland Planning Department, *in litt.*, 1992). A 1,600-acre site that contains suitable habitat for the Alameda whipsnake in the City of Clayton is under review to determine potential commercial uses (Randall Hatch, Clayton Planning Department, *in litt.*, 1991). McGinnis (1992) documented nine other colonies scattered throughout the range of the snake that are likely to be adversely impacted by several planned residential developments.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Both the callippe silverspot butterfly and Behren's silverspot butterfly are highly prized by insect

collectors. Although there are no studies of the impact of the removal of individuals on natural populations of either of the butterfly species, studies of another endangered nymphalid butterfly (Gall 1984a, 1984b) and a lycaenid butterfly (Duffey 1968) indicate it is likely that the callippe and Behren's silverspot butterflies could be adversely affected due to their isolated, possibly small populations. The Service is aware of preserved specimens of the callippe silverspot butterfly that have been recently collected on San Bruno Mountain. Some of these specimens are traded for other butterfly taxa or held by the collectors in anticipation of their greater value if the species is listed. The Service also is aware of reports that Behren's silverspot butterfly is actively sought after by amateur lepidopterists.

There is an extensive commercial trade for the two butterfly species proposed herein for listing, as well as other imperiled or rare butterflies (Chris Nagano and John Mendoza, U.S. Fish and Wildlife Service, pers. obs., 1992). Collecting from small colonies or repeated handling and marking (particularly of females and in years of low abundance) could seriously damage the populations through loss of individuals and genetic variability (Gall 1984b, Murphy 1988, Singer and Wedlake 1981). Collection of females dispersing from a colony also can reduce the probability that new colonies will be established. Collectors pose a threat because they may deplete butterfly colonies below the thresholds of survival or recovery (Collins and Morris 1985).

The Alameda whipsnake does not appear to be particularly popular among reptile collectors; however, Federal listing could raise the value of the animals within reptilian trade markets and increase the threat of unauthorized collection above current levels (Ken McCloud, U.S. Fish and Wildlife Service, pers. comm., 1992). Even limited interest in the species among reptile collectors could pose a serious threat to populations that contain few individuals.

C. *Disease or predation.* There are no indications that disease or predation pose a significant threat to the callippe silverspot butterfly or Behren's silverspot butterfly. The real or potential occurrence of disease in the Alameda whipsnake is unknown.

A number of native mammals and birds are known or likely to be predators of the Alameda whipsnake, including kingsnakes (*Lampropeltis* sp.), raccoons (*Procyon lotor*), skunks (*Mephitis mephitis*), opossums (*Didelphis marsupialis*), foxes (*Vulpes* sp.), and hawks (*Buteo* sp.). The introduction of the red fox (*Vulpes vulpes*), a species not native to this region of the State, in the 19th century poses an additional threat to the Alameda whipsnake. The snakes seem to protect themselves both physically and behaviorally from this predator, perhaps due to their adaptions to native predators, and the snake populations seem to withstand predation from these animals. However, in situations where Alameda whipsnake habitat has become fragmented, isolated, and otherwise degraded by human activities, increased predatory pressure may become excessive, especially where alien species, such as rats (*Rattus* sp.), and feral and domestic cats and dogs are introduced. These additional threats become particularly acute where urban development is immediately adjacent to Alameda whipsnake habitat. Although the actual impact of predation under such situations has not been studied, the likelihood for serious impact exists.

D. *The inadequacy of existing regulatory mechanisms.* The callippe silverspot butterfly and Behren's silverspot butterfly are not specifically protected under any Federal, State or local law. The California Department of Fish and Game has indicated that it is unable to protect insects under its current regulations (Pete Bontadelli, California Department of Fish and Game, *in litt.*, 1990). Although the San Bruno Mountain Habitat Conservation Plan provides protection from habitat destruction caused by habitat loss, the unauthorized collection remains an ongoing threat as discussed in Factor B.

The California Environmental Quality Act and California Endangered Species Act are the primary environmental legislation passed at the State level that potentially benefits the conservation of the Alameda whipsnake. The animal was listed as a threatened species by the State of California in 1971 (California Department of Fish and Game 1987). Although these State laws provide a measure of protection to the species and have resulted in the formulation of mitigation measures to reduce or offset impacts for projects proposed in certain Alameda whipsnake habitats, these laws are not adequate to protect the species in all cases. Numerous activities do not fall under the purview of this legislation, such as certain projects proposed by the Federal government and projects falling under State statutory exemptions. Where overriding social and economic considerations can be demonstrated, these laws allow project proposals to go forward, even in cases where the continued existence of the species may be jeopardized or where adverse impacts are not mitigated to the point of insignificance.

E. *Other natural or man-made factors affecting their continued existence.* Use of insecticides could be a threat to the two butterfly species. Silverspot butterfly larvae are extremely sensitive to pesticides and even the accumulation of runoff in the soil after spraying has proven lethal to the larvae of members of the genus *Speyeria* (Mattoon *et al.* 1971). There is the potential that species in the food chain of the snake would be impacted as well.

High levels of grazing by livestock may pose a threat to the extant populations of the two butterfly species. Overgrazing could cause trampling and the ingestion of the larval foodplants and the adult nectar sources. Low levels of grazing could allow other plants to outcompete the species required by the callippe and Behren's silverspot butterflies.

Grazing has adversely affected the habitat of the Alameda whipsnake in many areas east of the coast range (McGinnis 1992). Livestock grazing that significantly reduces or eliminates shrub and grass cover is detrimental to this animal. Most snake species, including the Alameda whipsnake, avoid open barren areas because of the increased danger from predators and the lack of prey (McGinnis 1992). Overgrazing has eliminated otherwise suitable Alameda whipsnake habitat in the area between Black Diamond Mines Regional Park and Marsh Creek Road in Contra Costa County and along the west facing slopes of the Altamont Pass region between Vasco Road and Altamont Pass Road in Alameda County.

Off-road vehicles and human or horse foot traffic may pose a threat to the colonies of the two butterfly species. These activities could result in harassment, injury, or death of individuals of these two species by trampling or crushing the eggs, larvae, or pupae.

Adequate levels of *Viola* are critical for the long-term survival of populations of the two butterfly species (Mattoon, *in litt.*, 1989, 1991). However, California's native grassland and coastal prairie have been adversely affected by the introduction and invasion of numerous non-native plants (Heady 1988, Heady et al. 1988). Often these introduced and alien plants, such as iceplant (*Carprobrotus* sp.), gum trees (*Eucalyptus* spp.), and French broom (*Ulex europaeus*), outcompete and largely supplant the native vegetation. Without control and eradication programs, the introduced and alien taxa will continue to invade and eliminate

the remaining native plant communities, including the host plants of the callippe and Behren's silverspot butterflies. Non-native vegetative communities also may eliminate habitat for the Alameda whipsnake.

Periodic fires are an important factor in maintaining the grassland and coastal prairie habitat of the silverspot butterflies (Hammond and McCorkle 1984, Orsak 1980). Without fire, succession eliminates the foodplants of the larvae of the callippe and Behren's silverspot butterflies. Periodic "cool," fast-moving fires seem important for the maintenance of the habitat of the two butterflies. Without fire, dead grass and other vegetation from previous years may not decay quickly enough and gradually accumulate to form a thick layer of thatch that smothers and crowds out the violets. The larvae of the silverspot butterflies may survive fires that move rapidly through grassland habitats, in contrast to hotter, slower-moving brush and woodland fires that may kill them (McCorkle and Hammond 1988, Orsak 1980). Under windy conditions, grassland fires also burn in patches, which leave "islands" of unburned habitat that may contain butterflies.

In small populations, the breeding of closely related individuals can cause genetic problems, particularly the expression of deleterious genes (known as inbreeding depression). Individuals and populations possessing deleterious genetic material are less able to cope with environmental conditions and adapt to environmental changes, even those that are relatively minor. Further, small populations are subject to the effects of genetic drift (the loss of random genetic variability). This phenomenon also reduces the ability of individuals and populations to successfully respond to environmental stresses. Overall, these genetic factors could influence the survivability of the smaller, genetically isolated populations of each of the three species that are the subject of this proposed rule.

The callippe silverspot butterfly, Behren's silverspot butterfly, and the Alameda whipsnake also may suffer from associated effects of habitat fragmentation. Subdivision of land into smaller blocks of habitat often is the result of human-related activities, such as livestock grazing, road construction, and urban development, and serves to exacerbate the isolation of extant populations. Most of the populations of the three species proposed for listing herein are isolated from other conspecific populations. Since recolonization from neighboring populations is unlikely or impossible, this isolation could have negative demographic effects, such as low reproductive success. Also, by further reducing population size and genetic interchange among populations, habitat fragmentation increases the probability of genetic drift and inbreeding depression. This may result in less vigorous and adaptable populations of the three species proposed for listing.

Due to the existence of only small and fragmented populations, the three species proposed for listing also may be vulnerable to random fluctuations or variations (stochasticity), such as changes in annual weather patterns, availability of food, and other natural or human-induced environmental factors. For example, when the populations of the callippe and Behren's silverspot butterflies were large, the effects of a drought or a low abundance of foodplants would not cause the extinction of these species. However, given the current population status, events such as drought or low foodplant abundance could cause their extinction.

The Service has carefully assessed the best scientific and commercial information regarding past, present, and future threats faced by these species to propose this rule. As described in more detail above under Factors A, B, C, D, and E, the available information indicates that the callippe silverspot butterfly, Behren's silverspot butterfly, and the Alameda whipsnake should be listed pursuant to section 4 of the Act. The limited range of these species makes them vulnerable to overcollecting, rapid urbanization, off-road vehicle use, inappropriate levels of grazing, and loss of habitat due to invasive exotic vegetation. Stochastic events, which commonly affect small isolated populations, also may result in extirpation of some populations of these species. Ongoing and proposed development projects pose an imminent threat to Behren's silverspot butterfly and the Alameda whipsnake throughout their ranges. Extraordinary increases in human populations and associated pressures for urban development have rendered existing mechanisms inadequate.

Other alternatives to this action were considered but not preferred because not listing these species at all or listing them as threatened would not provide adequate protection and not be in keeping with the purposes of the Act. Based on this evaluation, the preferred action is to list the callippe silverspot butterfly (*Speyeria callippe callippe*), Behren's silverspot butterfly (*Speyeria zerene behrensii*), and Alameda whipsnake (*Masticophis lateralis euryxanthus*) as endangered. For reasons discussed below, the Service is not proposing to designate critical habitat for these animal species at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent at this time for the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

As discussed under "Summary of Factors Affecting the Species," the three animals and their habitats are vulnerable to several activities. The Service is concerned about the impacts of the illicit commercial trade of the Alameda whipsnake, callippe silverspot butterfly, and Behren's silverspot butterfly. Unauthorized collecting is an activity that can be difficult to control because it can be done in a fairly discrete manner. The precise pinpointing of localities that would result from publication of critical habitat descriptions and maps in the **Federal Register** would increase enforcement problems because the species proposed herein for listing would be more vulnerable to collecting, as well as vandalism to their habitat. The potential for declines due to the collection of these species is so great that any benefit from the designation of critical habitat is outweighed by the risk of increased taking. Therefore, the Service finds that designation of critical habitat for these animals is not prudent. Protection of the habitat of these species will be addressed through the section 4 recovery process and through the section 7 consultation process.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results

in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

No populations of the callippe silverspot butterfly, Behren's silverspot butterfly, and the Alameda whipsnake are known to occur on property owned by the Federal government. However, several Federal agencies would be affected by the listing of these animals. The U.S. Department of Housing and Urban Development (HUD) may insure housing loans in areas that presently support the species proposed for listing herein. Therefore, HUD actions regarding these loans would be subject to review by the Service under section 7 of the Act. The U.S. Bureau of Reclamation would be affected by the listing of these animals as this is the lead agency in administering the permits for the proposed Los Vaqueros Reservoir. The Army Corps of Engineers' activities or issuances of permits subject to section 404 of the Clean Water Act would be subject to the Endangered Species Act section 7 requirements. The Department of Transportation (Federal Highways Administration) may be involved with the construction and maintenance of roads and highways in areas where some or all of these species may be affected, hence this agency would also be subject to section 7 of the Endangered Species Act. Any Federal actions that are subject to environmental review under the National Environmental Policy Act may be subject to the requirements of section 7 of the Act.

In 1982, a habitat conservation plan (HCP) was completed and a section 10(a) incidental take permit was issued to the cities of Brisbane, Daly City, and South San Francisco and the county of San Mateo for the endangered mission blue butterfly (*Icaricia icarioides missionensis*), San Bruno elfin butterfly (*Incisalia mossii bayensis*), and San Francisco garter snake (*Thamnophis sirtiralis tetrataenia*). The HCP, entitled "San Bruno Mountain Habitat Conservation Plan" (U.S. Fish and Wildlife Service permit number PRT 2–9818), permanently protects about 1,115 hectares (2,752 acres) of natural habitat at this site. The conference report on the 1982 amendments to the Endangered Species Act of 1973 indicates that Congress intended HCPs to encompass both listed and unlisted species, especially unlisted species that might later be protected. Although the callippe silverspot butterfly was not included in the section 10(a) permit, the San Bruno Mountain HCP included specific considerations and provisions in the event it did become listed by the Service. Habitat of one of the two known extant populations of the callippe silverspot butterfly is protected under this HCP. The permit allows for the loss of animals and habitat through urban development containing approximately 8 percent of the San Bruno Mountain population of the callippe silverspot butterfly. Although habitat is protected, the Service is aware of numerous preserved specimens of the callippe silverspot butterfly that have been collected recently on San Bruno Mountain on lands where the animal is not protected.

The Act and implementing regulations found at 50 CFR 17.21 for endangered species set forth a series of prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such activity), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any such species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was taken illegally. Certain exceptions can apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered animal species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Further information regarding regulations and requirements for permits may be obtained from the U.S. Fish and Wildlife Service, Office of Management Authority, Permits Branch, 4401 North Fairfax Drive, room 420C, Arlington, Virginia 22203–3507 (telephone 703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and effective as possible. Therefore any comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, trade, or other relevant data concerning any threat (or the lack thereof) to the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake;

(2) The location of any additional populations of the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake;

(3) Reasons why locations of habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(4) Additional information concerning the range, distribution, and population size of the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake; and

(5) Current or planned activities in the subject areas that may impact the callippe silverspot butterfly, Behren's silverspot butterfly, and Alameda whipsnake.

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to the adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal. The Service plans to conduct a public hearing, and the dates and location will be announced at a later date. Requests regarding a public hearing must be received within 45 days of the date of

the proposal. Such requests must be made in writing (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Chris Nagano, staff entomologist, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. Section 17.11(h) is amended by adding the following, in alphabetical order under Reptiles and Insects, to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vetebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*		*	*
REPTILES							
*	*	*	*	*		*	*
Whipsnake (= striped racer), Alameda.	*Masticophis lateralis euryxanthus.*	U.S.A. (CA)	Entire	E		NA	NA
*	*	*	*	*		*	*
INSECTS							
*	*	*	*	*		*	*
Butterfly, Behren's silverspot.	*Speyeria zerene behrensii.*	U.S.A. (CA)	NA	E		NA	NA
*	*	*	*	*		*	*
Butterfly, callippe silverspot.	*Speyeria callippe callippe.*	U.S.A. (CA)	NA	E		NA	NA
*	*	*	*	*		*	*

Dated: January 31, 1994.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 94–2548 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[I.D. 013194A]

Summer Flounder Fishery

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NMFS issues this notice that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 6 to the Fishery Management Plan for the Summer Flounder Fishery (FMP) for review by the Secretary of Commerce (Secretary) and is requesting comments from the public.

DATES: Written comments on Amendment 6 must be received on or before March 31, 1994.

ADDRESSES: Written comments should be mailed to Richard B. Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–3799. Mark the outside of the envelope "Comments on Summer Flounder Plan".

Copies of the amendment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 S. New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) requires that each regional fishery management council submit any fishery management plan or plan amendment it prepares to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that it is available for public review and comment. The Secretary will consider the public comments in determining whether to approve, disapprove, or partially disapprove the FMP amendment.

Current regulations prohibit otter trawl vessels retaining 100 pounds or more of summer flounder between May 1 and October 31, or 200 pounds or more of summer flounder between November 1 and April 30, and having any net, or any piece of net not meeting the minimum mesh size requirements on board. Amendment 6 would allow nets not meeting the minimum mesh size to be on board a vessel even if the above thresholds are exceeded, provided the nets are appropriately stowed. Once the threshold amounts of summer flounder are retained, nets that do not meet the minimum mesh size requirements could not be used for the remainder of the fishing trip.

The proposed amendment would also modify the schedule for establishing the annual management measures for the recreational fishery for summer flounder. The regulations setting the recreational possession limit would be revised to allow the measure to be set later in the year to provide an opportunity to review data from the previous year. The timing provisions would be revised to require the Regional Director to publish the proposed commercial quota and other measures by October 15 and the proposed recreational measures by February 15 of the year for which the specifications are being proposed.

Amendment 6 would also clarify the language prohibiting twisted mesh, authorize an experimental fishery under certain conditions, and make the definition of a fish box consistent with that in the Fishery Management Plan for the Northeast Multispecies Fishery.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 15 days.

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

Dated: January 31, 1994.

Davis S. Crestin,

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

[FR Doc. 94–2502 Filed 1–31–94; 4:31 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 59, No. 24
Friday, February 4, 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

Animal and Plant Health Inspection Service

[Docket No. 90–108–6]

Medfly Cooperative Eradication Program; Record of Decision Based on the Final Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the Medfly Cooperative Eradication Program final environmental impact statement.

ADDRESSES: Copies of the record of decision and the final environmental impact statement on which the record of decision is based are available for review between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the following locations:

APHIS Reading Room, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250;

USDA–APHIS Library, room G180, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782;

- USDA–APHIS–PPQ, 9580 Micron Avenue, Suite I, Sacramento, CA 95827;
- USDA–APHIS–PPQ, 3505 Boca Chica Boulevard, Suite 360, Brownsville, TX 78521–4065;
- USDA–APHIS–PPQ, 3505 25th Avenue, Building 1, North, Gulfport, MS 39501;
- USDA–APHIS–PPQ, Blason II, 1st floor, 505 South Lenola Road, Moorestown, NJ 08057.

Interested persons may obtain copies of the record of decision and the final environmental impact statement by writing to any of the addresses listed above with an asterisk or to the address listed below under "FOR FURTHER INFORMATION CONTACT."

FOR FURTHER INFORMATION CONTACT: Mr. Harold T. Smith, Branch Chief, Environmental Analysis and Documentation, BBEP, APHIS, USDA, room 543, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8963.

SUPPLEMENTARY INFORMATION: On April 9, 1993, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** (58 FR 18366, Docket No. 90–108–3) a notice advising the public that APHIS had prepared a draft environmental impact statement (EIS) for the Medfly Cooperative Eradication Program. The notice also requested comments on the draft EIS to be received on or before May 24, 1993. On May 28, 1993, we published a notice reopening the comment period and extending it until June 18, 1993 (58 FR 31007, Docket No. 90–108–4). By close of business June 18, 1993, we had received 255 comments on the draft EIS. We carefully reviewed and considered all of the comments, and revised the draft EIS based on suggestions and information offered in the comments.

On November 26, 1993, we published in the **Federal Register** (58 FR 62322, Docket No. 90–108–5) a notice advising the public that APHIS, in cooperation with 12 other Federal and State organizations, had prepared a final EIS for the Medfly Cooperative Eradication Program. The final EIS includes a comprehensive analysis of all feasible methods for controlling the Mediterranean fruit fly. The final EIS was made available, and locations were provided where interested persons could review copies.

This notice advises the public that APHIS has prepared a record of decision based on the final EIS. This record of decision has been prepared in accordance with: (1) The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

The Agency record of decision is set forth below.

Record of Decision; Final Environmental Impact Statement; Medfly Cooperative Eradication Program

Decision

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) has prepared a final environmental impact statement (EIS) for the Medfly Cooperative Eradication Program. The EIS analyzed alternatives for eradication of the Mediterranean fruit fly (Medfly), a serious pest of agriculture that may in the future infest areas of the conterminous United States. After considering fully the analysis presented in the EIS (including supportive documents cited or incorporated by reference), I have accepted the findings of the EIS.

As described in the EIS, selection of an alternative (and associated control methods) for future Medfly programs will be on an individual basis, made only after site-specific assessment of the individual program areas. The selection of an alternative (and control methods) will consider the findings of the EIS, the site-specific assessment, the public response, and any other relevant information available to APHIS at the time. APHIS will conduct environmental monitoring, as described in "Environmental Monitoring Plan, Medfly Cooperative Eradication Program" (incorporated by reference in this record of decision). I have determined that this course of action includes all practicable means to avoid or minimize environmental harm from Medfly control measures that may be employed by APHIS in future cooperative Medfly programs.

Alternatives Considered

The alternatives considered within the EIS include: No action, Medfly suppression (including chemicals), Medfly suppression (no chemicals), Medfly eradication (including chemicals), and Medfly eradication (no chemicals). They were broad in scope and reflect the major choices that must be made for a future program. The action alternatives combined variously the use of control methods, also analyzed within the EIS. The control methods included chemical control, nonchemical control, and combined control (including integrated pest management or IPM). They are limited

in scope and reflect the specific means by which the program objectives may be met. The EIS considered and compared the potential impacts of the alternatives as well as their component control methods.

Decisional Background

In arriving at this decision, I have considered pertinent risk analyses, chemical background statements, a biological assessment for endangered and threatened species, and other technical documents whose analyses and conclusions were integrated into and summarized within the EIS. I have also considered APHIS' responsibilities under various statutes or regulations, the technological feasibilities of the alternatives and control methods, and public perspectives relative to environmental issues. Although scientific controversy may exist relative to the severity of potential impacts, especially with regard to pesticide impacts, I am satisfied that APHIS has estimated correctly the impacts of alternatives for Medfly eradication.

APHIS understands the potential consequences of control methods (especially chemical methods) used for Medfly eradication. Chemical control methods have greater potential for adverse environmental consequences than nonchemical control methods. Chemical pesticides have the potential to adversely affect human health, nontarget species, and physical components of the environment. APHIS fully appreciates the dangers pesticides may pose, especially to sensitive members of communities.

APHIS is committed to the rational use of chemical pesticides and strives to reduce their use wherever possible. However, APHIS has statutory obligations that require it to act decisively to eliminate foreign pest species such as the Medfly. Given the current state of control technology, we believe that nonchemical control methods (used exclusively) are not capable of eradicating the Medfly. We know too that the net result of a decision not to use chemicals would be that other government entities or commercial growers are likely to use even more chemicals over a wider area, with correspondingly greater environmental impact. APHIS is convinced that, if eradication remains the objective, a coordinated and well-run government program that limits the use of pesticides to the minimum necessary to do the job is therefore in the best interests of the public and the environment. APHIS continues to support and favor the use of IPM strategies in achieving Medfly eradication.

Final Implementation

In all cases, a site-specific assessment will be made prior to the time a decision is made on the control methods that will be used on a particular program. The site-specific assessment will consider characteristics such as unique and sensitive aspects of the program area, applicable environmental and program documentation, and applicable new developments in environmental science or control technologies. The site-specific assessment will also confirm the adequacy of or need for additional program mitigative measures. The site-specific analysis process is described more fully in the EIS. Site-specific assessments will be made available to the public and APHIS will consider the public's perspective relative to individual programs.

To avoid or minimize environmental harm, APHIS will follow all standard operational procedures and program mitigative measures developed for the Medfly Cooperative Eradication Program. These procedures (incorporated by reference in this record of decision) are fully described in the EIS, and include but are not limited to the following: Pesticide applicator certification, training and applicator orientation, special pesticide precautions for pesticide application, identification of sensitive sites, public notification procedures, and interagency coordination and consultation.

December 29, 1993.

Lonnie J. King,

Acting Administrator.

Done in Washington, DC, this 1st day of February, 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94-2601 Filed 2-3-94; 8:45 am]

BILLING CODE 3410-34-P

[Docket No. 93-169-1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that four applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect an application are encouraged to call ahead on (202) 690-2817 to facilitate entry into the reading room. You may obtain copies of the documents by writing to the person listed under "FOR FURTHER INFORMATION CONTACT."

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application number	Applicant	Date received	Organisms	Field test location
93–342–01	U.S. Department of Agriculture, Agricultural Research Service	12–08–93	Tomato plants genetically engineered to express a satellite of cucumber mosaic virus (CMV) for resistance to CMV.	Alabama, Florida, Maryland
93–351–01	DNA Plant Technology Corporation	12–17–93	Sugar snap pea plants genetically engineered to express reduced starch levels.	California
93–362–01	Monsanto Agricultural Company	12–28–93	Potato plants genetically engineered to express resistance to potato leaf roll virus.	Idaho, Oregon, Washington
93–364–01	Washington University	12–30–93	*Arabidopsis tha-liana* plants genetically engineered to express tolerance to the herbicide chlorsulfuron.	Missouri

Done in Washington, DC, this 1st day of February, 1994.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–2602 Filed 2–3–94; 8:45 am]

BILLING CODE 3410–34–P

Economic Research Service

National Agricultural Cost of Production Standards Review Board: Meeting

The National Agricultural Cost of Production Standards Review Board will meet on February 17–18, 1994, in room 1225 in the Economic Research Service Building, 1301 New York Avenue NW., Washington, DC.

The purpose of this meeting is to discuss general issues related to USDA's estimation of enterprise costs of production. The first session of the meeting will be 8 a.m.–11:30 a.m. on February 17, 1994. Sebsequent sessions will be held from 1 p.m.–5 p.m. on February 17, and 8 a.m.–12 noon on February 18.

All sessions will be open to members of the public who wish to observe. Written comments may be submitted before or after the meeting to Richard Long, Acting Director, ARED–ERS–USDA, room 314, 1301 New York Avenue NW., Washington DC 20005–4888.

This meeting is authorized by 7 U.S.C. 4104, as amended. For further information, contact Jim Ryan at (202) 219–0798.

Kenneth L. Deavers,

Acting Administrator.

[FR Doc. 94–2481 Filed 2–3–94; 8:45 am]

BILLING CODE 3410–81–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held February 24, 1994, at 9 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis on implementation of the Export Administration Regulations (EARS), and provides for continuing review to update the EARS as needed.

Agenda

General Session

1. Opening remarks by the Chairman
2. Presentation of papers or comments by the public
3. Discussion of Foreign Policy Report
4. Regulatory Update
5. RPTAC Working Group and Project Reports

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meetings date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 18, 1993, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meeting of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: January 28, 1994.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–2612 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DT–M

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 12/16/93–01/14/94

Firm name	Address	Date petition accepted	Product
Ladish Co., Inc	5481 S. Packard Avenue, Cudahy, WI 53110.	12/16/93	Housing for jet engines, aircraft landing gear, nuclear reactor components.
Electric Mobility Corporation	1 Mobility Plaza, Sewell, NJ 08080	12/21/93	Electric scooters for the physically challenged.
MMG Corporation	1717 Olive Street, St. Louis, MO 63103–1724.	12/23/93	Neckties.
Solomon Sportswear of Tallassee, Inc	104 South Wesson Street, E. Tallassee, AL 36023.	12/27/93	Women's skirts, trousers and shorts.
Roman Art Embroidery Corporation	75 York Avenue, Randolph, MA 02368	12/29/93	Embroidered sports caps and emblems and misc. items.
Wit-o-Matic Inc	22605 Heslip Drive, Novi, MI 48375	12/29/93	Non-numerically controlled machine tools for grinding carbide cutting tools and parts.
Production Machine, Inc	1200 N. 43rd Street, P.O. Box 708, Muskogee, OK 74402.	01/04/94	Flanges (clamps).
Friend Manufacturing Corp	4441 Prospect Street, Box 385, Gasport, NY 14067.	01/05/94	Agricultural sprayers.
Augustus Clothiers Inc	465 Troutman Street, Brooklyn, NY 11237.	01/05/94	Men's and women's coat jackets.
Norgood Tools Inc	940 Millstead Way, Rochester, NY 14624	01/05/94	Mental drill bits.
Utica Corporation	P.O. Box 539, Utica, NY 13503	01/05/94	Turbines, fans and compressor blades.
Williamsport Wirerope Works, Inc	100 Maynard Street, Box 3188, Williamsport, PA 17701.	01/05/94	General purpose rope, elevator rope and mining rope.
Lawran Foundry Co., Inc.	4700 West Electric Avenue, Milwaukee, WI 53219.	01/06/94	Aluminum components of medical equipment, machine tools, off-road vehicles and aerospace equipment.
Smart Quality Manufacturing	1400 West Maple Ave., Eunice, LA 70535.	01/11/94	Children's wear, uniforms and bags.
Atlas Electric Devices Co.	4114 North Revenswood Avenue, Chicago, IL 60613.	01/10/94	Environmental testing equipment, parts, physical testing equipment and parts.
Liberty Electronics Inc	191 Howard Street, Franklin, PA 16323	01/14/94	Wire.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: January 26, 1994.

Pedro R. Garza,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 94–2613 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–24–M

Foreign-Trade Zones Board

[Order No. 682]

Grant of Authority for Subzone Status; Mr. Coffee, Inc. (Small Kitchen Appliances), Bedford Heights, OH

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, for authority to establish a special-purpose subzone at the small kitchen appliance/coffeemaker manufacturing plant of Mr. Coffee, Inc., located in Bedford Heights, Ohio (Cleveland area), was filed by the Board on August 30, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 48–93, 58 FR 47858, 9–13–93); and

Whereas, the Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 40E) at the Mr. Coffee, Inc., plant in Bedford Heights, Ohio, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 27th day of January 1994.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 94–2608 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than February 28, 1994, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

Antidumping duty proceedings	Period
Austria: Railway Track Maintenance Equipment (A–433–064)	02/01/93–01/31/94
Canada: Racing Plates (A–122–050)	02/01/93–01/31/94
Germany: Sodium Thiosulfate (A–428–807)	02/01/93–01/31/94
Japan: Benzyl Paraben (A–588–816)	02/01/93–01/31/94
Japan: Carbon Steel Butt-Weld Pipe Fittings (A–588–602)	02/01/93–01/31/94
Japan: Melamine (A–588–056)	02/01/93–01/31/94
Japan: Mechanical Transfer Presses (A–588–810)	02/01/93–01/31/94
The People's Republic of China: Axes/Adzes (A–570–803)	02/01/93–01/31/94
The People's Republic of China: Bars/Wedges (A–570–803)	02/01/93–01/31/94
The People's Republic of China: Hammers/Sledges (A–570–803)	02/01/93–01/31/94
The People's Republic of China: Picks/Mattocks (A–570–803)	02/01/93–01/31/94
The People's Republic of China: Natural Bristle Paint Brushes (A–570–501)	02/01/93–01/31/94
The People's Republic of China: Sodium Thiosulfate (A–570–805)	02/01/93–01/31/94
The Republic of Korea: Certain Small Business Telephone Systems and Subassemblies Thereof (A–580–803)	02/01/93–01/31/94
The Republic of Korea: Stainless Steel Butt-Weld Pipe Fittings (A–580–813)	07/21/93–01/31/94
United Kingdom: Sodium Thiosulfate (A–412–805)	02/01/93–01/31/94
Suspension Agreements	
Venezuela: Gray Portland Cement and Clinker (A–307–803)	02/01/93–01/31/94
Countervailing Duty Proceedings	
Peru: Cotton Sheeting and Sateen (C–333–001)	01/01/93–12/31/93
Peru: Cotton Yarn (C–333–002)	01/01/93–12/31/93
Saudi Arabia: Carbon Steel Wire Rod (C–517–501)	01/01/93–12/31/93
Thailand: Malleable Iron Pipe Fittings (C–549–803)	01/01/93–12/31/93

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review. For antidumping reviews, the interested party must specify for which individual producers or resellers covered by an antidumping finding or order it is requesting a review, and the requesting party must state why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: John Kugelman, in room 3069–A of the main Commerce Building. Further, in accordance with § 353.31(g) or 355.31(g) of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by February 28, 1994.

If the Department does not receive, by February 28, 1994, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: January 28, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–2609 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DS–M

Request for Monitoring of Certain Chrome-Plated Lug Nuts From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice and request for comments; request for monitoring of certain chrome-plated lug nuts from the Republic of Korea.

SUPPLEMENTARY INFORMATION: On October 13, 1993, the Secretary of Commerce received a request that the Secretary monitor imports of certain

chrome-plated lug nuts ("CPLNs"), from the Republic of Korea under section 732(a)(2) of the Tariff Act of 1930, as amended ("the Act"), and § 353.11(c) of the Department's regulations. The request was submitted by Consolidated International Automotive, Inc. ("Consolidated"), the largest domestic producer of CPLNs, and applies to one-piece and two-piece chrome-plated lug nuts, finished or unfinished, which are more than 11/16 inches (17.45 millimeters) in height and which have a hexagonal ("hex") size of at least three quarters of an inch (19.05 millimeters) but not greater than one inch (25.4 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. CPLNs are included under item number 7318.16.0010 of the Harmonized Tariff Schedule. Consolidated requests that the Secretary monitor imports of these products from the Republic of Korea, alleging that the circumstances which allow the Department to monitor imports currently exist. Under section 732(a)(2) of the Act, the requirements for the Secretary to monitor imports are: (a) More than one antidumping duty order for the same class or kind of merchandise must be in effect; (b) the Department must have a reason to believe or suspect that there exists an extraordinary pattern of persistent injurious dumping with respect to shipments from one or more additional supplier countries; and (c) this extraordinary pattern of persistent injurious dumping is causing a serious commercial problem for the domestic industry.

COMMENTS: Interested parties wishing to comment upon this request must send written comments not later than March 7, 1994. Comments should be sent to the Secretary of Commerce, attention: Import Administration, Central Records Unit, room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 7 days after March 7, 1994. Any interested parties submitting business proprietary information must do so in accordance with § 353.32(b) of the Department's regulations and submit a public version or summary of that information.

FOR FURTHER INFORMATION CONTACT: Bruce Harsh or Alain Letort, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–3793 or telefax (202) 482–1388.

Dated: January 28, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–2611 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DS–M

Intent to Revoke Antidumping Duty Orders/Findings

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty orders/findings and suspension agreements.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty orders/findings listed below. Domestic interested parties who object to these revocations must submit their comments in writing by February 28, 1994.

EFFECTIVE DATE: February 4, 1994.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public or our intent to revoke the following antidumping duty orders/findings for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping duty proceeding	Date of finding/order
Japan: Melamine (A–588–056) Contact: Todd Peterson/Tom Futtner, (202) 482–5253.	42 FR 6366, 02/02/77.
Japan: Carbon Steel Butt-Weld Pipe Fittings (A–588–602) Contact: Sheila Forbes, (202) 482–5253.	52 FR 4167, 02/10/87.
People's Republic of China: Paint Brushes (A–570–501) Contact: Maureen Shields, (202) 482–5253.	51 FR 5580, 02/14/86.

If interested parties do not request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or domestic interested parties do not object to the Department's intent to revoke pursuant to this notice, we shall conclude that the antidumping duty orders/findings are no longer of interest to interested parties and shall proceed with the revocation.

Opportunity to Object

Domestic interested parties, as defined in §§ 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders/findings by February 28, 1994.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: January 28, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–2610 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

[Docket No. 940111–4011; #I.D. 123093B]

Inspection and Certification Fees and Charges

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

ACTION: Notice of 1994 inspection fees.

SUMMARY: NMFS announces changes in its fees and charges, effective January 1, 1994. However, since the regulations are being amended to allow for review and revision of inspection fees and charges as needed, rather than annually as currently written, the identified fees and charges will apply until further notice. NMFS is anticipating no further changes in fees and charges until October 1994. The change in fees and charges represents an increase of 6.0 percent in the basic hourly rates and results from higher operating costs such as salaries, transportation, and supplies.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Richard V. Cano, Chief, Inspection Services Division, National Marine Fisheries Service, Silver Spring, MD 20910, Phone 301/713–2355.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR 260.70 authorize the Secretary of Commerce to review and revise annually the rates for voluntary fishery products inspection, grading, and certification services by publishing a notice of fee changes in the **Federal Register**. The regulations are

being amended to allow for review and revision of inspection fees and charges as needed, rather than annually as currently written. Therefore, the identified fees and charges, effective January 1, 1994, will apply until further notice. NMFS is anticipating no further changes in fees and charges until October 1994. The change in fees and charges represents an increase of 6.0 percent in the basic hourly rates and results from higher operating costs such as salaries, transportation, and supplies.

Below is the schedule of fees effective January 1, 1994. The fees outlined for the State of Alaska are for services provided by cross-licensed State of Alaska inspectors. Charges for services provided in Alaska by NMFS inspectors will be at the rates specified immediately below, plus cost of living allowances.

(a) Type I—Official establishment and product inspection—contract basis:

	Per hour
Regular (except Alaska)	$36.40
Overtime (except Alaska)	54.60
Sunday and legal holidays (2 hrs. minimum) (except Alaska)	72.80

(1) The contracting party will be charged at an hourly rate of $36.40 per hour for regular time;

(2) $54.60 per hour for overtime in excess of 8 hours per shift per day; and

(3) $72.80 per hour for Sunday and national legal holidays for services performed by inspectors at official establishment(s) operating under Federal inspection.

In addition to any hourly service charge, a night differential fee equal to 10 percent of the employee's hourly salary will be charged for each hour of service provided after 6:00 p.m. and before 6:00 a.m. The contracting party will be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. Products designated in a contract will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate.

(b) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular (except Alaska)	$50.96
Overtime (except Alaska)	76.44
Sunday and legal holidays (2 hrs. minimum) (except Alaska)	101.92
Minimum fee (except Alaska)	38.22

(1) For lot inspection services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$50.96 per hour.

(2) For lot inspection services performed at times Monday through Friday other than between 7:00 a.m. and 5:00 p.m., and on Saturdays (2 hrs. minimum)—$76.44 per hour.

(3) Sunday and national legal holidays (2 hrs. minimum)—$101.92 per hour.

(4) The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour will be $38.22.

(c) Type III—Miscellaneous inspection and consultative services.

When any inspection or related service such as, but not limited to, initial and final establishment surveys, appeal inspections, contract lot inspections, sanitation evaluations, Sanitary Inspected Fish Establishment (SIFE) inspections, sampling, product evaluations, and label and product specification reviews, requires charges to which the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular (except Alaska)	$45.50
Overtime (except Alaska)	68.25
Sunday and legal holidays (2 hrs. minimum) (except Alaska)	91.00
Minimum fee (except Alaska)	34.13

In keeping with the intent of the authorizing legislation and the policies of the Inspection Program to charge fees to recover, as nearly as possible, the costs of providing inspection services, the hourly rates charged to contract lot inspection users who provide complete and acceptable facilities that are used by U.S. Department of Commerce (USDC) inspectors to conduct the necessary official contract functions will be those delineated under Type I. In all other cases, contract lot inspection users will be charged Type III rates.

In addition to the hourly fee charges for inspection services, all users of voluntary seafood inspection services should note that charges will be assessed for sampling and laboratory analysis that will be performed randomly on a limited frequency, depending on the health risk of the end product to consumers. This sampling and analysis protocol, conducted as a surveillance mechanism of the NSIP and the industry, will provide added verification that the consumer receives safe products. The details of the surveillance sampling and billing procedures are available upon request.

For current participants and interested parties in the Hazard Analysis Critical Control Point (HACCP) -based service, modifications in determining the charges for HACCP plan review have been completed and are available, as well as more specific program requirements for vessel, retail, and food service establishments.

(1) For miscellaneous inspection and consultative services performed between the hours of 7 a.m. and 5 p.m., Monday through Friday—$45.50 per hour.

(2) For miscellaneous inspection and consultative services performed Monday through Friday, other than between 7 a.m. and 5 p.m., and on Saturdays (2 hrs. minimum)—$68.25 per hour.

(3) For miscellaneous inspection and consultative services performed on Sunday and national legal holidays (2 hrs. minimum)—$91.00 per hour.

(4) The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour will be $34.13.

(d) The hourly rates for the State of Alaska as performed by cross-licensed State of Alaska inspectors are as follows:

Charges for services provided in Alaska by NMFS inspectors will be at the rate stated previously, plus cost of living allowances. For Type I inspection, in addition to any hourly service charge, a night differential fee equal to 10 percent of the employee's hourly salary will be charged for each hour of service provided after 6 p.m. and before 6 a.m.

STATE OF ALASKA—AREA

[Per hour]

	Aleutian chain Bristol Bay Dillingham	South east and south central Anchorage, Kenai, Juneau, Ketchikan	Remainder of Alaska, Kodiak
Type I:			
Regular time	$49.45	$40.80	$43.70
Overtime	68.30	56.35	60.35
Sunday and legal holidays	85.15	70.20	75.20
Type II:			
Regular time	62.90	52.65	55.55
Overtime	86.75	74.85	78.90
Sunday and legal holidays	113.75	96.40	102.15

STATE OF ALASKA–AREA—Continued

[Per hour]

	Aleutian chain Bristol Bay Dillingham	South east and south central Anchorage, Kenai, Juneau, Ketchikan	Remainder of Alaska, Kodiak
Minimum Fee ...	51.60	43.20	45.55
Type III:			
Regular time ..	54.90	45.65	58.55
Overtime ..	73.05	61.25	65.60
Sunday and legal holidays .	93.95	78.65	85.00
Minimum fee	48.90	40.65	43.70

(e) Analytical services: Applicants requesting specific analyses to be performed in a NMFS laboratory, or participants who are required to have product analyzed periodically, will be charged at the rates identified below. Sample shipping costs will be the responsibility of the applicant.

Analyses performed in a private laboratory will be charged at the current rate of that laboratory. Charges based on these fees will be in addition to any hourly rates charged For lot, miscellaneous, and consultative inspection service, as well as to any hourly rates charged for inspection services provided under a contract.

Microbiology:	
Total aerobic plate count ..	$16.00.
Total coliform	$12.00.
Fecal coliform	$12.00 additional.
E. coli	$12.00 additional.
Staph. aureus	$45.00.
Salmonella BAM Method Step 1.	$33.00.
Step 2	$15.00 additional.
Step 3	$22.00 additional.
Listeria	
Presumptive	$23.00.
Confirmed	$35.00 additional.
Chemistry:	
Histamine	$90.00.
Indole	$75.00.
Ammonia	$55.00.
Sodium bisulfite	$90.00.
Isoelectric focusing (species identification).	$75.000.
Methylmercury	$90.00.
Chlorinated pesticides	$250.00.
Polychlorinated biphenyls	$250.00
Domoic acid	$75.00.
Bioasay:	
Paralytic shellfish poison .	$85.00 per sample (minimum of 3 samples).

Notes: The above costs are for analyses only. Sampling and travel time will be assessed using the Type II rates. Mileage costs will be assessed at the current rate. For other analyses not shown or not frequently requested, the charge will be assessed at the Type III hourly rate of $45.50.

All charges are per sample. An administrative surcharge of 20 percent of the total cost will also be assessed.

Classification

This action is taken under the authority of 50 CFR 260.70.

(Authority: 16 U.S.C. 742e and 7 U.S.C. 1622, 1624)

Dated: January 31, 1944.

Nancy Foster,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 94–2595 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

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

ACTION: Receipt of Application for a Scientific Research Permit (P112G).

SUMMARY: Notice is hereby given that the New York Zoological Society, Wildlife Conservation Society, 185th and Southern Blvd., Bronx, New York 10460 (William B. Karesh, DVM, Principal Investigator) has applied in due form for a permit to import from Peru and Argentina tissue samples taken opportunistically from South American fur seals (*Arctocephalus australis*), South American sea lions (*Otaria byronia*) and South American elephant seals (*Mirounga leonina*) for purposes of scientific research.

DATES: Written comments must be received on or before March 7, 1994.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s): Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, room 13130, Silver Spring, MD 20910 (301/713–2289); and Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200).

Written data or views, or requests for a public hearing on this request should be submitted to the Assistant Administrator for Fisheries, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Blood, tissue and fecal samples are requested to be imported from Argentina and Peru. The samples will be used to establish the current level of infectious disease exposure, toxic agent exposure, nutritional status, and normal health parameters to determine the baseline status of the free-ranging seals and sea lions. All sampling is being opportunistically added to ongoing work being conducted under Peruvian or Argentine authority. Formalin fixed tissues will only be collected from animals found dead at the study sites or brought in dead by local fisherman.

Dated: January 27, 1994.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–2523 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Negotiations During 1994

January 31, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Announcement.

SUPPLEMENTARY INFORMATION:

The U.S. Government anticipates holding negotiations during 1994 concerning expiring bilateral agreements covering certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and apparel from Bangladesh (January 31, 1995), Brazil (March 31, 1994), Dominican Republic (December 31, 1994), Guatemala (December 31, 1994), Haiti

(December 31, 1994), Indonesia (June 30, 1994), Lesotho (November 30, 1994), Malaysia (December 31, 1994), Panama (March 31, 1994), Romania (December 31, 1994), Sri Lanka (June 30, 1994) and Uruguay (June 30, 1994). (The dates noted in parenthesis are the expiration dates of the agreements.)

Anyone who wishes to comment or provide data or information regarding these agreements, or to comment on domestic production or availability of textiles and apparel affected by these agreements, is invited to submit such comments or information in 10 copies to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC, 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations held with respect to these agreements.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.94–2614 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Lesotho

January 31, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: February 7, 1994.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 347/348 is being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 662645, published on November 29, 1993). Also see 58 FR 61679, published on November 22, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 31, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 16, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Lesotho and exported during the twelve-month period which began on December 1, 1993 and extends through November 30, 1994.

Effective on February 7, 1994, you are directed to amend the November 16, 1993 directive to increase the limit for Categories 347/348 to 405,774 dozen [1], as provided under the terms of the Memorandum of Understanding dated July 30, 1993 between the Governments of the United States and the the Kingdom of Lesotho.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The limit has not been adjusted to account for any imports exported after November 30, 1993.

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–2615 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

January 31, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing new agreement year limits.

EFFECTIVE DATE: February 8, 1994.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6718. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated July 29 and August 6, 1991, as amended, between the Governments of the United States and the Republic of Turkey establishes limits for the period beginning on January 1, 1994 and extending through December 31, 1994.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 31, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1993; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated July 29 and August 6, 1991, as amended and extended, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 8, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Turkey and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following restraint limits:

Category	Twelve-month restraint limit
219, 313, 314, 315, 317, 326, 617, 625, 626, 627 and 628, as a group.	132,202,776 square meters of which not more than 30,211,029 square meters shall be in 219; 36,924,591 square meters shall be in 313; 21,483,398 square meters shall be in 314; 28,868,318 square meters shall be in 315; 30,211,029 square meters shall be in 317; 3,356,780 square meters shall be in 326; 20,140,687 square meters shall be in 617; 3,356,780 square meters shall be in 625; 3,356,780 square meters shall be in 626; 3,356,780 square meters shall be in 627; 3,356,780 square meters shall be in 628.
Limits not in group	
200	1,274,720 kilograms.
300/301	6,206,522 kilograms.
335	267,979 dozen.
336/636	631,238 dozen.
338/339/638/639	3,930,353 dozen of which not more than 1,965,176 dozen shall be in Categories 338–S/339–S/638–S/639–S[1].
340/640	1,293,594 dozen of which not more than 367,916 dozen shall be in shirts made from fabric of two or more colors in the warp and/or the filling in Categories 340–Y/640–Y[2].
341/641	1,277,485 dozen of which not more than 447,120 dozen shall be in blouses made from fabric of two or more colors in the warp and/or the filling in Categories 341–Y/641–Y[3].
342/642	702,699 dozen.
347/348	3,823,161 dozen of which not more than 1,329,862 dozen shall be in trousers in Categories 347–T/348–T[4].
350	398,538 dozen.
351/651	637,194 dozen.
361	1,339,893 numbers.
369–S[5]	1,385,194 kilograms.
410/624	1,050,907 square meters of which not more than 679,999 square meters shall be in Category 410.
448	36,061 dozen.
604	1,598,921 kilograms.

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010 and 6205.30.2020.

[3] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054; Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[4] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2033, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0042, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2033, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

[5] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1993 through December 31, 1993 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–2616 Filed 2–3–94; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

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

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 7, 1994.

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

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2–3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

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

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

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

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

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

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Desk, Field
7110–00–656–1110
NPA: Innovative Rehabilitation Services City of Industry, California

Beverly L. Milkman,

Executive Director.

[FR Doc. 94–2618 Filed 2–3–94; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

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

ACTION: Proposed additions to Procurement List.

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

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 7, 1994.

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

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2–3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

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

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

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

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

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

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Box, Shipping
8115–00–117–9524
8115–00–165–6599
8115–00–176–8062
8115–00–176–8064
8115–00–183–9484
8115–00–183–9487
8115–00–183–9488
8115–00–183–9489
8115–00–183–9490
8115–00–183–9491
8115–00–183–9493
8115–00–183–9494
8115–00–183–9496
8115–00–183–9497
8115–00–183–9498
8115–00–183–9499
8115–00–183–9500
8115–00–183–9501
8115–00–183–9503
8115–00–183–9504
8115–00–183–9505
8115–00–190–4863
8115–00–190–4888
8115–00–190–4921
8115–00–190–4936
8115–00–190–4950
8115–00–190–4959
8115–00–190–4968
8115–00–190–5002
8115–00–190–5007
8115–00–200–6954
8115–00–200–6961
8115–00–229–9340
8115–00–255–1346
8115–00–281–3877
8115–00–281–3882
8115–00–281–3886
8115–00–281–3889
8115–00–285–1116
8115–00–292–0724
8115–00–417–9318
8115–00–417–9320
8115–00–417–9378
8115–00–418–4653
8115–00–418–4656
8115–00–418–4660
8115–00–451–7853
8115–00–514–2404
8115–00–526–1617
8115–00–579–9153
8115–00–174–2354
8115–00–183–9481
8115–00–183–9482
8115–00–190–4864
8115–00–190–4865
8115–00–190–5012
8115–00–190–5017
8115–00–190–5053
8115–00–201–1123
8115–00–275–5777
8115–00–417–9236
8115–00–417–9292
8115–00–418–4657
8115–00–428–4183
8115–00–428–4185
8115–00–514–2409
8115–00–190–5011
8115–00–190–5018
8115–00–190–5020
8115–00–418–4654
8115–00–428–4158
8115–00–579–9155
8115–00–579–9156

8115–00–985–7312
8115–00–656–0912
8115–00–190–5015
8115–00–292–0120
8115–00–292–0123
8115–00–428–4145
8115–00–417–9416
8115–00–190–4969
NPA: Lynchburg Sheltered Industries, Inc., Lynchburg, Virginia
Sorter, T Card
9905–00–NSH–0236
(Requirements for the National Interagency Fire Center, Boise, Idaho)
NPA: Butte Sheltered Workshop, Inc., Butte, Montana

Services

Grounds Maintenance for the following Phoenix, Arizona locations:
Federal Building and U.S. Courthouse, 230 1st Avenue
Federal Building and U.S. Post Office, 522 North Central Avenue
NPA: Tempe Center for Habilitation, Inc., Tempe, Arizona
Janitorial/Custodial, U.S. Border Station, Building 581 and 588 (2nd Floor), 720 and 801 East San Ysidro Boulevard, San Diego, California,
NPA: Mental Health Systems, Inc., San Diego, California.

Beverly L. Milkman,

Executive Director.

[FR Doc. 94–2619 Filed 2–3–94; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Additions

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

ACTION: Additions to the Procurement List.

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

EFFECTIVE DATE: March 7, 1994.

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

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

SUPPLEMENTARY INFORMATION: On December 10 and 17, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (58 FR 64932 and 65971) of proposed additions to the Procurement List.

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

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

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

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

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

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

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial
Bldgs 433–437, 952–954, 956, 975, 980, 20140, 20202C, 20204, 20350, 20602C, 20604, 20684, 20685, 20686
Kirtland Air Force Base, New Mexico
Warehouse Operation,
Defense Contracting Management, District South,
805 Walker Street,
Marietta, Georgia,

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

Beverly L. Milkman,

Executive Director.

[FR Doc. 94–2620 Filed 2–3–94; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 175. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 175 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: 1 February 1994.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective 1 June 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

BILLING CODE 5000–04–M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:						
ADAK 5/	$ 10		$ 34		$ 44	10-01-91
ANAKTUVUK PASS	83		57		140	12-01-90
ANCHORAGE						
06-01--09-15	174		67		241	06-01-94
09-16--05-31	82		58		140	01-01-94
ANIAK	73		36		109	07-01-91
ATQASUK	129		86		215	12-01-90
BARROW	105		83		188	11-01-93
BETHEL	76		67		143	02-01-94
BETTLES	65		45		110	12-01-90
COLD BAY	110		54		164	07-01-93
COLDFOOT	95		59		154	10-01-92
CORDOVA	60		81		141	01-01-94
CRAIG	67		35		102	07-01-91
DILLINGHAM	85		64		149	11-01-93
DUTCH HARBOR-UNALASKA	113		67		180	05-01-92
EIELSON AFB						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
ELMENDORF AFB						
06-01--09-15	174		67		241	06-01-94
09-16--05-31	82		58		140	01-01-94
EMMONAK	62		61		123	10-01-93
FAIRBANKS						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
FALSE PASS	80		37		117	06-01-91
FT. RICHARDSON						
06-01--09-15	174		67		241	06-01-94
09-16--05-31	82		58		140	01-01-94
FT. WAINWRIGHT						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
HOMER						
05-01--09-30	71		60		131	05-01-94
10-01--04-30	60		58		118	02-01-94
JUNEAU						
04-30--09-14	92		74		166	04-30-94
09-15--04-29	78		73		151	01-01-94
KATMAI NATIONAL PARK	89		59		148	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	= MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
KENAI-SOLDOTNA				
04-02--09-30	$104	$ 74	$178	04-02-94
10-01--04-01	67	71	138	01-01-94
KETCHIKAN				
04-01--09-30	82	71	153	04-01-94
10-01--03-31	69	70	139	01-01-94
KING SALMON 3/	75	59	134	12-01-90
KLAWOCK	75	36	111	07-01-91
KODIAK	74	65	139	01-01-94
KOTZEBUE	133	87	220	05-01-93
KUPARUK OILFIELD	75	52	127	12-01-90
METLAKATLA				
06-01--10-01	95	58	153	06-01-94
10-02--05-31	72	56	128	02-01-94
MURPHY DOME				
05-15--09-15	106	59	165	05-15-94
09-16--05-14	68	55	123	01-01-94
NELSON LAGOON	102	39	141	06-01-91
NOATAK	133	87	220	05-01-93
NOME	71	67	138	10-01-93
NOORVIK	133	87	220	05-01-93
PETERSBURG	72	64	136	05-01-92
POINT HOPE	99	61	160	12-01-90
POINT LAY 6/	106	73	179	12-01-90
PRUDHOE BAY-DEADHORSE	73	60	133	11-01-93
SAND POINT	75	36	111	07-01-91
SEWARD				
05-01--09-30	90	65	155	05-01-94
10-01--04-30	52	62	114	01-01-94
SHUNGNAK	133	87	220	05-01-93
SITKA-MT. EDGECOMBE	79	71	150	01-01-94
SKAGWAY				
04-01--09-30	82	71	153	04-01-94
10-01--03-31	69	70	139	01-01-94
SPRUCE CAPE	74	65	139	01-01-94
ST. GEORGE	100	39	139	06-01-91
ST. MARY'S	77	59	136	06-01-93
ST. PAUL ISLAND	62	63	125	10-01-93
TANANA	71	67	138	10-01-93

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	= MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
TOK				
05-02--09-30	$ 60	$ 58	$118	05-02-94
10-01--05-01	51	57	108	01-01-94
UMIAT	97	63	160	12-01-90
VALDEZ				
05-01--09-14	95	61	156	05-01-94
09-15--04-30	79	59	138	01-01-94
WAINWRIGHT	90	75	165	12-01-90
WALKER LAKE	82	54	136	12-01-90
WRANGELL				
04-01--09-30	82	71	153	04-01-94
10-01--03-31	69	70	139	01-01-94
YAKUTAT	77	58	135	11-01-93
OTHER 3, 4, 6/	63	48	111	01-01-93
AMERICAN SAMOA	85	47	132	12-01-91
GUAM	155	75	230	05-01-93
HAWAII:				
ISLAND OF HAWAII: HILO	73	61	134	06-01-93
ISLAND OF HAWAII: OTHER	80	71	151	06-01-93
ISLAND OF KAUAI				
04-01--11-30	110	75	185	06-01-93
12-01--03-31	122	76	198	12-01-93
ISLAND OF KURE 1/		13	13	12-01-90
ISLAND OF MAUI				
04-01--11-30	79	71	150	06-01-93
12-01--03-31	96	73	169	12-01-93
ISLAND OF OAHU	105	62	167	06-01-93
OTHER	79	62	141	06-01-93
JOHNSTON ATOLL 2/	21	20	41	10-01-93
MIDWAY ISLANDS 1/		13	13	12-01-90
NORTHERN MARIANA ISLANDS:				
ROTA	68	55	123	01-01-93
SAIPAN	100	69	169	01-01-93
TINIAN	50	55	105	01-01-93
OTHER	20	13	33	12-01-90
PUERTO RICO:				
BAYAMON				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	= MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO: (CONT'D)				
CAROLINA				
05-01--12-14	$ 93	$ 73	$166	09-01-93
12-15--04-30	116	76	192	12-15-93
FAJARDO (INCL CEIBA, LUQUILLO AND HUMACAO)				
04-16--12-10	65	52	117	10-01-93
12-11--04-15	110	52	162	12-11-93
FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO)				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
MAYAGUEZ	85	65	150	08-01-92
PONCE	96	75	171	09-01-93
ROOSEVELT ROADS				
04-16--12-10	65	52	117	10-01-93
12-11--04-15	110	52	162	12-11-93
SABANA SECA				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
SAN JUAN (INCL SAN JUAN COAST GUARD UNITS)				
05-01--12-14	93	73	166	09-01-93
12-15--04-30	116	76	192	12-15-93
OTHER	63	52	115	08-01-92
VIRGIN ISLANDS OF THE U.S.				
06-02--12-19	180	112	292	09-01-93
12-20--06-01	255	120	375	12-20-93
WAKE ISLAND 2/	4	17	21	12-01-90
ALL OTHER LOCALITIES	20	13	33	12-01-90

FOOTNOTES

1/ Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

3/ On any day when US Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and incidental expenses at Shemya AFB, Clear AFS, Galena APT and King Salmon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.

6/ The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanzof APT, Fort Yukon RRL, Indian Mtn RRL, Sparrevohn RRL, Tatalina RRL, Tin City RRL, Barter Island AFS, Point Barrow AFS, Point Lay AFS and Oliktok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

	Daily Rate
DOD Personnel	$13
Non-DOD Personnel	$30

BILLING CODE 5000-04-C

Dated: January 31, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–2491 Filed 2–3–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Notice of Availability of a Draft Environmental Impact Statement for the Theater Missile Defense Extended Test Range

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice of availability.

SUMMARY: The Draft Environmental Impact Statement (DEIS) for the Theater Missile Defense (TMD) Extended Test Range proposal is now available for review and comment. The DEIS has assessed potential impacts associated with conducting extended range missile and sensor tests at four alternative test range areas. The TMD program would allow for the development of a means to protect deployed U.S. forces, as well as U.S. friends and allies around the world, against attacks by short- and medium-range ballistic, cruise, or air-to-surface missiles armed with conventional, nuclear, biological, or chemical warheads.

These tests would consist of multiple demonstration and developmental missile launches along proposed flight paths from off-range locations, with intercepts of targets over existing range areas or open sea areas located within and outside of the United States. Surface-to-surface missile tests are also proposed. These flights are needed to validate system design and operational effectiveness.

The DEIS addresses, to the extent possible, the potential environmental impacts that would result from test site modifications, launch preparation requirements, missile flights along the proposed flight paths, and intercepts of targets over existing ranges or open sea areas. It also identifies any mitigation measures that could avoid or lessen those impacts. Environmental resource topics evaluated include: air quality, airspace, noise, geology and soils, water resources, socioeconomics, hazardous materials and waste, health and safety, land use, infrastructure and transportation, and biological and cultural resources.

Lead agency: U.S. Army Space and Strategic Defense Command

Cooperating agencies: Ballistic Missile Defense Organization, United States Air Force, United States Navy, Bureau of Land Management, Federal Aviation Administration.

Proposed action: The proposed action is to conduct extended range tests of target missiles, defensive missiles, and sensor systems at one or more of four test range areas. The tests would involve target and defensive missile launches from existing test ranges and from off-range locations. Potential off-range launch locations may include land areas and sea-based platforms. Missile-to-missile intercepts would occur over existing test range areas or over open sea areas. Approximately 100 flight tests could occur during the period 1994 to 2000, from more than one off-range location, and potentially from more than one test range area. Alternatives for conducting these missile flight tests and intercepts, which are evaluated in the TMD Extended Test Range DEIS, are:

1. White Sands Missile Range (WSMR), NM. This alternative includes missile launches and sensor testing at WSMR and Ft. Bliss, TX, with off-range missile launches from Ft. Wingate Depot Activity, NM, and the Green River Launch Complex, UT.

2. Eglin Air Force Base (AFB), FL. This alternative includes missile launches and sensor testing at Eglin AFB on Santa Rosa Island and at Cape San Blas, with off-range missile launches from a sea-based platform in the Gulf of Mexico.

3. The Western Range, CA. This alternative includes missile launches and sensor testing at Vandenberg AFB, San Nicolas Island, and San Clemente Island, with off-range missile launches from a sea-based platform in the Pacific Ocean.

4. Kwajalein Missile Range (KMR), U.S. Army Kwajalein Atoll, Republic of the Marshall Islands. This alternative includes missile launches and sensor testing at KMR and Wake Island with off-range missile launches from a sea-based platform in the Pacific Ocean.

DATES: The Army will conduct public hearings concerning the Draft EIS in the following communities. Public comments are invited through 28 March, 1994.

February 22, 1994—Gallup, New Mexico, Oxnard, California

February 23, 1994—Crownpoint, New Mexico, Lompoc, California

March 1, 1994—Shiprock, New Mexico, Ft. Walton Beach, Florida

March 2, 1994—Moab, Utah, Port St. Joe, Florida

ADDRESSEE: Written comments may be forwarded to: Mr. David Hasley, U.S. Army Space and Strategic Defense Command, ATTN: CSSD–EN–V, P.O. Box 1500, Huntsville, AL 35807–3801. Written comments should be received by 28 March 1994. To record requests for further information, call toll free 1–800–603–3030.

Dated: January 28, 1994.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environmental, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 94–2506 Filed 2–3–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval from the Office of Management and Budget (OMB) has been requested by January 27, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Cary Green, Department of Education, 7th & D Streets SW., room 4682, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or

Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: January 28, 1994.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Emergency
Title: Application for Cooperative Demonstration School-To-Work Opportunities State Implementation Grant
Abstract: This collection requirement will be used for a single direct grant competition to implement an absolute priority on School-To-Work Opportunities State Implementation Grants under the Cooperative Demonstration Program authorized under Title IV, part 420A of the Carl Perkins Vocational and Applied Technology Education Act (Pub. L. 101–392). The requested information will be used to determine the eligibility of the applicant and whether the project proposed can be funded under the provisions of the appropriate statutes or regulations.
Additional Information: The U.S. Department of Education has requested an emergency review and approval from the Office of Management and Budget. The Department's requested approval date is January 28, 1994. To implement this White House initiative as early as possible, the Secretaries of Education and Labor have been working in partnership with the goal of having a substantial number of secondary students engaged in school-to-work transition activities in the coming school year. To achieve this, the Department's intended grant recipients must be notified during May of 1994 and their grants must be awarded by July 1, 1994. A publication of the notice inviting applications by January 28, 1994 will be essential to meeting the other target dates.
Frequency: One time
Affected Public: State or local government; Non-profit institutions
Reporting Burden:
Responses: 50
Burden Hours: 4,500
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 94–2488 Filed 2–3–94; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 7, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: January 28, 1994.

Cary Green,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Extension.
Title: Application for Training Programs in Early Childhood Education and Violence Counseling.
Frequency: Annually.
Affected Public: Individuals or households; Federal agencies or employees; Non-profit institutions
Reporting Burden:
Responses: 90.
Burden Hours: 540.
Recordkeeping Burden:
Recordkeepers: 5.
Burden Hours: 50.
Abstract: Institutions of higher education will apply for grants to establish innovative programs to recruit and train students under the Training Programs in Early Childhood Education and Violence Counseling. The Department will use this information to make grant awards.

[FR Doc. 94–2490 Filed 2–3–94; 8:45 am]

BILLING CODE 4000–01–P

[CFDA Nos.: 84.097A, 84.055A-E, 84.200]

AGENCY: Department of Education.

ACTION: Extension of closing dates.

SUMMARY: On September 24, 1993, the Department of Education published in the **Federal Register** (58 FR 50153) a combined application notice inviting applications for new awards for fiscal year 1994 under many of the Department's direct grant and fellowship programs. Among the programs listed in the combined application notice were the Law School Clinical Experience Program and the Cooperative Education Program. Additionally, on December 16, 1993, the Department of Education published in the **Federal Register** (58 FR 65838) a

notice inviting applications for new awards for fiscal year 1994 under the Graduate Assistance in Areas of National Need Program. Detailed information concerning each competition was included in each program notice.

The purpose of this notice is to allow those applicants affected by the recent earthquake in California additional time to submit their applications. Applicants who reside in areas designated by the President as adversely affected by a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) between January 17, 1994 and the original closing date may take advantage of this extension. Applicants should indicate in their applications that they reside in an adversely affected area as designated by the President.

Note: Applications must be received by the extended due date—not postmarked by that date. Applications received after the extended due date will not be accepted.

Extended Deadline for Transmittal of Applications:

The deadline for receipt of applications is extended for the following programs.

Law School Clinical Experience Program (CFDA No. 84.097A)

The notice inviting applications for the Law School Clinical Experience Program was published in the **Federal Register** on September 24, 1993 (58 FR 50153). The revised deadline for receipt of applications is February 23, 1994.

For Further Information Contact: John J. Lank, U.S. Department of Education, 400 Maryland Avenue, SW., Portals Building, Courtyard Level, Washington, DC 20202–5251. Telephone: (202) 260–3281.

Program Authority: 20 U.S.C. 1134u, 1134v.

Cooperative Education Programs (CFDA No. 84.055A-E)

The notice inviting applications for the Cooperative Education Programs was published in the **Federal Register** on September 24, 1993 (58 FR 50152). The revised deadline for receipt of applications is March 14, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Bonas, U.S. Department of Education, 400 Maryland Avenue, SW., Portals Building, Courtyard Level, Washington, DC 20202–5251. Telephone: (202) 260–3265.

Program Authority: 20 U.S.C. 1133, 1133a, 1133b, 1133c

Graduate Assistance in Areas of National Need Program (CFDA No. 84.200)

The notice inviting applications for the Graduate Assistance in Areas of National Need Program was published in the **Federal Register** on December 16, 1993 (58 FR 65838). The revised deadline for receipt of applications is February 28, 1994.

For Further Information Contact: Celeste Felious, U.S. Department of Education, 400 Maryland Avenue, SW., Portals Building, Courtyard Level, Washington, DC 20202–5251. Telephone: (202) 260–3368.

Program Authority: 20 U.S.C. 1134l–1134q–1

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in **Federal Register**.

Dated: January 31, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–2489 Filed 2–3–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Availability of Draft Federal Report on Energy Facility Siting

AGENCY: Office of Policy, Planning and Program Evaluation, U.S. Department of Energy.

ACTION: Notice of extension of public comment period.

SUMMARY: On December 16, 1993, U.S. Department of Energy (DOE) announced the availability of a draft report on energy facility siting, Energy Infrastructure of the United States and Projected Siting Needs: Scoping Ideas, Identifying Issues and Options; Draft Report of the Department of Energy Working Group on Energy Facility Siting to the Secretary (58 FR 65703). The purpose of the draft report is to address key issues impeding the siting of energy facilities. The report presents data and analysis regarding energy service needs, infrastructure requirements, and constraints to siting of energy facilities. The report also presents a series of potential initiatives to help improve the overall siting process for energy facilities. The draft report is accompanied by a second volume that provides documentation on the methodology used to conduct the analysis. This notice announces the extension of the comment period due to requests from interested parties.

DATES: Individuals wishing to present their views on the draft report should do so in writing by April 30, 1994.

ADDRESSES: A copy of the draft report and the documentation summary is available for inspection and reproduction at the public reading room of the U.S. Department of Energy, Forrestal Building, 1000 Independence Ave., SW., Washington, DC. The public reading room is open from 9 a.m. to 4 p.m.; you may contact reading room staff at (202) 586–6020. If you wish to have a copy of the draft report mailed to you directly, please contact Dr. Barry Gale at the address below.

Four copies of the written comments should be addressed to Dr. Barry G. Gale, Office of Policy, Planning and Program Evaluation, U.S. Department of Energy, 1000 Independence Ave., SW., PO–63, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Dr. Barry G. Gale, Office of Policy, Planning and Program Evaluation, U.S. Department of Energy, 1000 Independence Ave., SW., PO–63, Washington, DC 20585, (202) 586–6708.

Issued in Washington, DC on January 28, 1994.

Abraham E. Haspel,

Deputy Assistant Secretary for Economic and Environmental Policy.

[FR Doc. 94–2599 Filed 2–3–94; 8:45 am]

BILLING CODE 6450–01–M

Environmental Restoration and Waste Management

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of inquiry and request for comment.

SUMMARY: The Department of Energy (DOE) is developing eligibility standards and funding criteria for the distribution of DOE discretionary funds to federally-recognized American Indian tribes by DOE's Office of Environmental Restoration and Waste Management (EM). Discretionary funds, pursuant to Section 646 of the DOE Organization

Act, are awarded to Indian tribes to participate in DOE's remediation and management program for wastes produced as the result of its activities at its former and current weapons production facilities. Such participation relates directly to DOE's American Indian Tribal Government policy, pursuant to DOE Order 1230.2, recognizing a government-to-government relationship with Indian tribes.

Because of the potential for broad interest, DOE is providing interested parties an opportunity for comment on issues related to the funding of Indian tribes who are directly affected by DOE activities. DOE invites written comment on the criteria development process before proposing guidelines. In addition, DOE will schedule public workshops at several of its sites. Announcement of the location, date, and time of the public workshops will be published in the **Federal Register**. At these workshops, tribes and other interested parties will have an opportunity to further discuss issues related to guidance.

DATES: Written submissions on this notice of inquiry are due on or before June 1, 1994.

ADDRESSES: Written comments should be submitted to Margaret Fernandez, Office of Environmental Restoration and Waste Management, Office of Public Accountability (EM–5), U.S. Department of Energy, Room 5B–031, 1000 Independence Ave. SW., Washington DC 20585. FAX Telephone: (202) 586–0293.

FOR FURTHER INFORMATION CONTACT: Margaret Fernandez, at the address above, or by telephone at (202) 586–5821.

I. Background

In 1989, the Office of Environmental Restoration and Waste Management was established to address environmental problems at the Department's facilities. Many of the Department's past, present, and future activities potentially affect Indian tribes. Past activities of DOE involved the research and production of plutonium, uranium, and other hazardous substances. Present and future activities focus on the management and remediation of wastes produced as a result of the Department's production activities.

Because DOE's activities may affect tribes in close proximity to DOE sites, the Department's policy is to consult with these tribes and support tribal environmental remediation programs. The fundamental goals of DOE's policy are to involve affected tribes in remediation activities, provide tribes safe access to and management of cultural and natural resources, and promote tribal economic competitiveness and self-sufficiency pursuant to administration policy and legal requirements.

In the past, DOE discretionary funds have been distributed to Indian tribes primarily through planning grants. Planning grants have funded tribal environmental restoration and waste management programs to identify, analyze and take initiatives to address waste management and cleanup issues stemming from DOE sites and facilities. The Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Yakima Indian Nation have received planning grants related to the Hanford site.

As an alternative to planning grants, DOE has used cooperative agreements to fund tribal activities. A cooperative agreement requires greater involvement between DOE and the participant in negotiating and conducting the proposed activities. This involvement results in specific project milestones and products that ensure greater accountability. The Department has successfully employed cooperative agreements to implement hazardous materials emergency response programs, as occurred in the case of the Waste Isolation Pilot Project with the Shoshone-Bannock Tribes, and at the Hanford site with the Confederated Tribes of the Umatilla Indian Reservation. Based on this experience, DOE intends to use cooperative agreements as the prime vehicle for tribal involvement in environmental remediation activities. In addition to the use of cooperative agreements, the government-to-government relationship between DOE and tribal nations may also be expressed through site-specific agreements, memoranda of understanding, and joint ventures.

The amount of DOE discretionary funds available for tribal cleanup activities in the early years of the DOE environmental program was based on large projected budget increases. However, present and anticipated budget constrictions for the EM program only allow for moderate funding. As a result, the amount of funds available for tribal environmental management and cleanup activities has leveled, while the degree of involvement by tribes, and the number of tribes that want to be involved in remediation activities, continue to grow. Budget limitations, coupled with DOE's commitment to involve affected tribes in its cleanup and management activities, necessitate the development of standards and guidance for disbursement of DOE discretionary funds to tribes.

These standards will require the development of criteria relating to eligibility and funding. Eligibility criteria would determine which tribes would qualify to enter into cooperative agreements with DOE. Funding criteria would determine the types of activities that are to be funded and the levels of funding. DOE acknowledges that eligibility and funding criteria may utilize similar factors.

II. Discussion—Eligibility and Funding Criteria

A. Eligibility

Eligibility criteria would determine if a federally-recognized Indian tribe qualifies to enter into a cooperative agreement allowing tribal participation in DOE environmental remediation activities. The following considerations could be used to determine tribal eligibility:

(1) Should a tribe be considered eligible if its legal interests arising from treaty, statutes, and case law are affected by a DOE hazardous waste site.

(2) Should a tribe be considered eligible if its legal interests arising from treaty, statutes, and case law are affected by a DOE produced waste stream or transportation corridor which carries DOE hazardous wastes?

(3) Should a tribe considered eligible if its cultural and natural resources are located on or in close proximity to a DOE hazardous waste site, DOE produced waste stream, or transportation corridor which carries DOE hazardous wastes? Please define cultural and natural resources.

(4) Should a tribe be eligible if its reservation is located on or in close proximity to a DOE hazardous waste site, DOE produced waste stream, or transportation corridor which carries DOE hazardous wastes?

(5) Should "close proximity" be limited to a geographically defined area in relation to a DOE hazardous waste site, DOE produced waste stream, or transportation corridor which carries DOE hazardous wastes (e.g., a geographic area of not more than 50 miles, 100 miles, etc., from a hazardous site)?

(6) Should "close proximity" be defined to include more distant areas where actual or likely physical harm could occur as a result of a DOE hazardous waste site, DOE produced waste stream, or transportation corridor which carries DOE hazardous wastes?

(7) What other factors should be considered in determining eligibility?

B. Funding

Once it is ascertained which tribes are eligible to enter into cooperative agreements with DOE, the next determination is what particular tribal activities should be funded and at what levels. The following considerations which could be used to determine tribal funding include:

(1) Should a priority system be used to categorize activities by factors such as the following:

(a) The degree of the threat or actual level of harm to a tribe (e.g., the greater threat of harm, the greater the priority, etc.);

(b) Size of affected tribal population; and

(c) Types of activities proposed, (e.g., a groundwater monitoring activity to ensure a safe drinking water supply versus the remediation of a cultural site).

(i) Should activities that support tribal management of cultural resources receive greater priority than other activities?

(ii) Should activities which would assist a tribe in becoming more economically competitive and self-sufficient receive greater priority than other activities?

(2) Should the fact that a tribe was previously funded by DOE mean it should receive greater consideration than a tribe that has never been funded, or the opposite?

(3) Should a tribe receive greater funding consideration for past participation in DOE activities that were well performed by the tribe?

(4) Where possible, should tribes that coordinate and prepare a joint proposal receive more favorable consideration than proposals by individual tribes?

(5) To what extent should proximity be taken into account in funding one tribe that can argue a greater degree of affectedness over another tribe? "Affected" is defined in this instance to apply to a tribe that faces a substantial environmental or health impact.

III. Request for Submissions

The criteria and other ideas raised in this Notice are suggestions for comment. Comments need not address all suggestions raised in this inquiry and can be limited to particular points. DOE welcomes additional comments on eligibility and funding criteria for Indian tribes. All written information provided by respondents will be available for public inspection at the Department of Energy, Freedom of Information Reading Room, room 1E–190, 1000 Independence Avenue, SW., Washington, 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Pursuant to the provisions of 10 CFR 1004.11 (1983), any person submitting information believed to be confidential and exempt by law from public disclosure should submit a copy of the document in which information believed to be confidential has been deleted along with the confidential submissions. The Department of Energy will determine the confidential status of the information and treat it accordingly.

Signed at Washington, DC., this 31st day of January, 1994.

Thomas P. Grumbly,

Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 94–2596 Filed 2–3–94; 8:45 am]

BILLING CODE 6450–01–P

Research, Development and Demonstration of New and Advanced Natural Gas Utilization Technologies—Very Low Emission Industrial Combustion Equipment; Financial Assistance, DE–PS07–94ID13285

AGENCY: Department of Energy, Idaho Operations Office.

ACTION: Solicitation for Financial Assistance.

SUMMARY: Notice is hereby given pursuant to Public Law 93–577, and Federal Non-nuclear Energy Research and Development Act of 1974, the U.S. Department of Energy (DOE) Idaho Operations Office (ID), is seeking cost-shared applications to expedite private sector deployment of cost effective new and advanced natural gas combustion systems which improve efficiency and reduce combustion emissions significantly without post-combustion controls. To encourage commercialization of the developed technology, applications are expected to include direct participation by an industrial partner (equipment manufacturers, the end user industry sector or the natural gas industry). A minimum 20% non-DOE cost-share for research and development phases and a minimum 50% non-DOE cost-share for the demonstration phase is required. The applicant or one of the industrial partners is expected to be an organization that will market the equipment developed and demonstrated as a result of this solicitation. This is a complete solicitation document.

DATES: The effective date of this solicitation is February 4, 1994. The deadline for receipt of applications is 4 p.m. MDT, May 5, 1994.

ADDRESSES: Applications shall be submitted to: *NUMBER DE–PS07–94ID13285* J.O. Lee, Contracting Officer; Procurement Services Division; U.S. Department of Energy; 785 DOE Place, MS 1221, Idaho Falls, ID 83401–1562.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer, Contract Specialist, (208) 526–0014.

Background

U.S. Industry burns eighteen percent of all fuels combusted in the U.S. for all purposes. Wide spread adoption of combustion equipment incorporating even a small improvement in efficiency can, on a nation-wide basis, result in significant energy savings which translate into significant cost savings.

Projects sponsored by the DOE Industrial Combustion Equipment Program are based on the needs and concerns of industry. The program advances technology to the point of commercialization. Historically, activities have focused on the development of energy efficient, environmentally benign combustion equipment for use in one or more high energy consuming manufacturing industries.

The on-going implementation of clean air regulations is making environmental considerations a major factor in the adoption of the equipment developed by this DOE Program. Low emissions are expected to be the major incentive for adoption of these energy saving technologies by industry.

Title I of the 1990 Clean Air Act Amendments (CAAA), requires some ozone non-attainment areas to meet 9 ppm or lower NOx standards for new industrial combustion equipment. This emission target can now be met only by using Selective Catalytic Reduction (SCR) systems which have high capital and operating costs and which may have a substantial energy penalty, resulting in low overall energy efficiency. The need to use SCR systems on new industrial units has been a serious impediment to the replacement of existing equipment which is generally "grandfathered" and may require no emission controls or minimal controls such as low NOx burners for continued operation. As a consequence, industry has kept old, inefficient equipment operating, often far beyond the anticipated or design life of that equipment.

The opportunity now exists for the U.S. to introduce very low emission combustion equipment for use by industry. Emissions would be in the range now realized with post-combustion equipment controls, but these costly, inefficient downstream systems would not be needed. Mandated emissions targets would be

met by using equipment based on advanced natural gas combustion techniques and would be realized by replacing or retrofitting existing furnaces, heaters, and boilers with these advanced systems. Energy efficiency, a traditional DOE goal, would be at least equal to today's best industrial combustion equipment. Overall, substantial energy would be saved since the energy required to operate post-combustion control systems and produce and transport their chemical reagents would not be needed.

Increased energy efficiency decreases the emission of greenhouse gasses as an additional benefit. In addition, combustion of natural gas releases less carbon dioxide per unit energy than from other fossil fuels.

This work responds to the Energy Policy Act (EPAct) of 1992 (Public Law 102–486), Title XXII (Energy and Economic Growth), enabled October 24, 1992. Section 2014 directs the development of efficient, low emission combustion equipment that uses natural gas.

Projects funded by the DOE Industrial Combustion Equipment Program are generally phased, but it is not required that they be phased. Phase I typically involves an expansion of market and economic estimates based on those presented in the proposal, the identification and finalization of host site arrangements, additional laboratory (bench scale) or theoretical evaluation of the system proposed, and development of a business plan. Phase II typically encompasses development, fabrication, testing, and evaluation of a pilot scale unit. Additional economic evaluations are generally conducted to assess commercial scale systems. Phase III typically encompasses the installation and testing of a demonstration (proof-of-concept) scale unit at an industrial host facility. Tasks in more than one phase may be addressed simultaneously. For the purpose of cost share determination, Phase I and Phase II tasks are considered to be research and development while Phase III tasks are demonstration. The demonstration is designed to provide industry with credible data to accelerate the adoption of new technology combustion equipment. A commercial product that improves the efficiency, reduces emissions, and enhances the competitiveness of U.S. industry is expected to result from each project.

Project Description

This solicitation is to promote new and advanced natural gas utilization technologies for the research, development and demonstration of cost effective, very low emission industrial natural gas combustion equipment in intermediate temperature applications which will improve efficiency and reduce emissions without the need for post-combustion controls. This approach to emissions control reflects the view that it is substantially more economical to prevent pollution than to eliminate it after it has been produced. This proposed technology may be a retrofit to existing systems or may require totally new systems. A commercial end product is the main objective of each project funded by this solicitation. Awardees will be required to prepare a business plan that illustrates how the equipment end product will be commercialized.

The proposed technology must meet the current EPA Lowest Achievable Emission Rate (LAER) NOx standards without add-on emission controls such as Selective Catalytic Reduction (SCR). The NOx target value for intermediate temperature range industrial combustion equipment for the purposes of this solicitation will be 9 ppm or less at 3% excess oxygen. Not only are NOx emissions to be low, the emissions of other undesirable products of combustion are to be within EPA specifications or low (if no source specifications have been promulgated) as well. Included are carbon monoxide (CO), hydrocarbons, and air toxics. For the purpose of this solicitation the CO target value will be 50 ppm or less. Regulations for air toxics and hydrocarbons have not yet been developed for the types of industrial boilers, furnaces, etc, which are the subject of this solicitation. Additional information for air toxics and hydrocarbons is contained in Title I and Title III of the 1990 CAAA.

The focus of the project(s) to result from this solicitation is on natural gas combustion equipment with low emissions production from intermediate temperature industrial combustion applications. For the purposes of this solicitation, the intermediate temperature range includes process steam applications (all temperatures), direct heat, and process fluid heating applications between 800°F to 2000°F. Examples of direct heating applications (but not limited by this list) include heat transfer from combustion gasses to a heat sink such as used in metals processing, calcining, smelting, annealing, forging, and melting. Examples of process fluid heating applications include petroleum refining, distillation, and oil loop heating. Internal combustion engines, gas turbines and waste incinerator applications are excluded from this solicitation. It would be advantageous if the equipment developed were applicable to more than one industry.

All projects that are within the above project description are eligible for consideration under this solicitation.

Examples of possible projects include, but are not limited to: (1) Optimization of porous radiant burner heat transfer; (2) catalytic combustion burner for furnaces and boilers; (3) inert porous media furnace/boiler, and; (4) precombustion chamber burner for heavy oils which facilitate interruptible natural gas usage. Additional information will be provided for these four technologies in a paper included in the pre-applicant package entitled, "Very Low Emission Industrial Combustion Equipment, Research and Development". It is stressed, these are example projects only.

It is intended that during the demonstration phase, emissions are to be measured using a certified methodology by an independent commercial emissions measurement company. If "before and after" measurements are warranted, the above is to be used for both to assure the quality of the results obtained.

Award of Cooperative Agreements is anticipated. All projects shall be cost shared by DOE and the participant. Applicants should be aware that any awardee shall be required to have a cost share of not less than 20% of the total cost of the program for the research and development phases and 50% of the total cost of the program for the demonstration phase.

Because of the interest of the natural gas industry in this solicitation, it is expected that segments of that industry may make some cost share funds available to applicants for projects they consider to be beneficial to their segment of the industry. The natural gas industry has typically supported the research, development and demonstration phases of projects. The Industrial Gas Technology Commercialization Center (IGTCC), 1515 Wilson Blvd, Arlington, VA 22209, has agreed to serve as a clearinghouse for channelling gas industry funding into projects. Applicants wishing to be considered for natural gas industry support should contact David L. Sgrignoli, Executive Director (telephone number 703–841–8561) at IGTCC before submitting proposals. It is suggested that bidders contact IGTCC as early in the proposal preparation process as is practical. While the cost share requirements of EPAct must be met, natural gas industry funding is NOT required to obtain DOE support. Likewise, natural gas industry funding

will NOT provide assurance of DOE support.

No fee or profit will be paid to the award recipients. DOE anticipates that approximately $873,000 will be available for support of activities during FY–94. It is anticipated that there will be one or more awards. Available funds for future years is anticipated to be at the same or an increased level.

Individual project duration will not exceed 5 years. Project(s) with durations of less than 5 years and in any phase (I, II or III) of development are eligible, if conclusive evidence is presented that previous phase(s) have been completed successfully. All applications with project periods of 5 years or less will be given equal consideration. Initial awards will be for one year, with subsequent year extensions, contingent on available DOE funding.

Applications shall contain a well defined research concept and plan; confirmed industrial partner participation and support; and indicate satisfactory expertise, experience, capabilities, resources, and management of R&D team personnel; and adequate facilities to perform the research including a potential host facility for demonstration purposes.

Selection is expected to be made in June 1994 and the earliest award is expected to be made in November 1994.

Negotiation, award, and administration will be in accordance with DOE Financial Assistance Regulations (10 CFR part 600). The Catalog of Federal Domestic Assistance (CFDA) number for this program is 81.078. Profit making entities, individuals, educational or nonprofit institutions, federal laboratories, and other entities, are eligible to submit applications in response to this solicitation. OMB A–95 clearance is not required. Applications anticipating participation of a federal laboratory through subcontract, use agreement, or other arrangement must include satisfactory evidence of specific authorization from the cognizant federal agency.

Notice of Possible Availability of Loans for Bid Proposal Preparation by Minority Business Enterprises seeking DOE Contracts and Assistance (Section 211(e)(1) of the DOE Act Public Law 95–619 as amended by Public Law 95–619) authorizes the DOE to provide financial assistance to minority business enterprises to assist them in their efforts to participate in DOE acquisition and assistance programs. Financial assistance is in the form of direct loans to enable the preparation of bids or proposals for DOE contracts and assistance awards, subcontracts with DOE operating contractors, and contracts with subcontracts of DOE operating contractors. The loans are limited to 75% of the costs involved. Availability of these loans is subject to annual appropriation of funds (and to the remaining availability of funds from such appropriations under CFDA number 81.063). DOE does not warrant that such assistance can be made available in sufficient time to prepare an application for this solicitation. DOE does point out that the program includes provisions for a preliminary review in advance of a specific loan request. Information regarding loan availability, eligibility criteria, and how to apply may be obtained from: San Francisco Field Office, USDOE, 1333 Broadway, Oakland, California 94612, Attention: Minority Loan Program Office. Telephone (415) 273–6403.

Evaluation of Applications

a. Application Deadline: The deadline for receipt of applications is 4 p.m. MDT, May 5, 1994. Only applications which are timely in accordance with 10 CFR 600.13 will be evaluated. Late applications will not be considered and will be handled in accordance with 10 CFR 600.13.

Prospective applicants intending to submit an application in response to this solicitation should request a pre-application package, which includes standard forms, assurances and certifications, by notifying the DOE Contract Specialist in writing or by telephone. It is advised that prospective applicants submit their requests in writing no later than February 21, 1994. Questions regarding this solicitation should also be submitted in writing to the DOE Contract Specialist no later than March 8, 1994. Questions and answers will be issued in writing as an amendment to this solicitation.

b. Selection of Proposals: Applications not responsive to the objective of this solicitation will not be considered. All timely applications that include a minimum 20% non-DOE cost-share for research and development phases and a minimum 50% non-DOE cost-share for the demonstration phase and meet the other requirements of this solicitation will be considered.

c. All applications will be evaluated and point-scored in accordance with the following criteria. The applications should be fully responsive to each of the criteria.

Weighting of Criteria: The Evaluation Criteria are weighted in the following manner: The criteria will be based on a maximum of 100 points. Criterion 1 has a maximum point value of 45. Criterion 2 has a maximum point value of 45. Criterion 3 has a maximum point value of 10.

Criterion 1: Research Concept and Plan—Factors to be considered are the clarity, completeness, responsiveness, and adequacy of the statement of work; the merit and depth of discussion of the proposed project (review of supporting data obtained in laboratory and/or pilot scale work completed to date) to determine if the proposed work is new and advanced, is based on sound scientific/engineering principles, improves efficiency and reduces natural gas combustion equipment emissions significantly without post-combustion controls, and the general applicability, timeliness and potential economic viability of the proposed technology; the planned levels of data acquisition, sampling and analyses; the schedule (sequence of project tasks, principal milestones, decision points, and adequacy of time for each task); and the planned assignment of responsibilities and level of manpower to complete the research.

Criterion 2: Applicant/Team Capabilities—Factors to be considered for the applicant and industrial partner team personnel are experience in research, development and demonstration of the project proposed; knowledge of past advanced developments in the work proposed; resources to perform the research, development and demonstration of the work proposed; ability to assemble a team of multi-disciplined individuals; qualifications of key individuals and the percentage of time devoted to the project; individual responsibilities, task assignments, and resource and manpower availability; draft business plan outline; project management methods; and, the applicant's or an industrial partner's capability to market the equipment developed and demonstrated as a result of this solicitation.

Criterion 3: Facilities—Factors to be considered are the availability of laboratory and potential host facilities for performing research, development and demonstration work proposed; apparatus for performance of the tests, instrumentation, and data acquisition and control systems; and the availability of analytical support.

d. The proposed cost of the project will not be point scored. Applicants are advised, however, that notwithstanding the lower relative importance of the cost considerations, the evaluated cost may be the basis for selection. In making the selection decision, the apparent advantages of individual technical and

business applications will be weighed against the probable cost to the government to determine whether the application approaches (excluding cost considerations) are worth the probable cost differences.

e. Selection: Applications will be evaluated under the Office of Energy Conservation and Renewable Energy Merit Review of Discretionary Financial Assistance Applications Review Procedures for Solicited Proposals. The Source Selection Official (SO) will make the selection for negotiation and award in accordance with the above evaluation criteria and in a manner that furthers the DOE programmatic goals.

Conditions, Instructions and Notices to Applicants

1. General Conditions

In conducting the application evaluations, the government may obtain assistance and advice from non-governmental personnel. Applicants are therefore requested to state on the application cover sheet if they do not consent to an evaluation by such non-government personnel. The applicants are further advised that DOE may be unable to give full consideration to an application submitted without such consent. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in 10 CFR 600.18.

DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this solicitation. DOE may require applications to be clarified or supplemented to the extent considered necessary, either through additional written submissions or oral presentations; however, the award may be made solely on the information contained in the application. DOE is under no obligation to pay for any costs associated with preparation or submission of applications if an award is not made.

All applicants will be notified in writing of the action taken on their applications in approximately 90 days after the closing date for this solicitation, provided no follow-up clarifications are needed. Status of any application during the evaluation and selection process will not be discussed with the applicants. Unsuccessful applications will not be returned.

2. Instructions for Preparation of Applications

Each application in response to this solicitation should be prepared in one volume. One original and seven copies of each application are required. The application facesheet is the Standard Form 424. The application is to be prepared for the complete project including a detailed statement of objectives and cost estimate by task for the entire project. The statement of objectives and cost estimate by task should be presented in yearly increments. Applications shall be as short as possible consistent with completeness, clearly and concisely written, and neatly and logically assembled; applications shall exclude material not essential to evaluation of the proposal. The importance of supplying full and completely responsive information for each of the evaluation criteria cannot be overemphasized.

If the offer is submitted under a joint venture arrangement, this fact must be clearly set forth. The cost principles that shall apply will depend on the type of awardee; FAR 31.2 and DEAR 931.2 shall apply to commercial organizations; OMB Circular A–21 shall apply to institutions of higher education; OMB Circular A–87 shall apply to state and local governments; and OMB Circular A–722 shall apply to nonprofit organizations. The awardee must have an accounting system capable of accumulating costs by project. All applicants are required to provide in the application the nine digit Taxpayer Identification Number (TIN) assigned by the U.S. Internal Revenue Service.

a. Proprietary Proposal Information: Applications submitted in response to this solicitation may contain trade secrets and/or privileged or confidential commercial or financial information which the applicant does not want used or disclosed for any purpose other than evaluation of the application. The use and disclosure of such data may be restricted provided the applicant marks the cover sheet of the application with the following legend, specifying the pages of the application which are to be restricted in accordance with the conditions of the legend:

> The data contained in pages _____ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the government's right to use or disclose data obtained without restriction from any source, including the applicant.

Further, to protect such data, each page containing such data shall be specifically identified and marked, including each line or paragraph containing the data to be protected with a legend similar to the following:

> Use or disclosure of the data set forth above is subject to the restriction on the cover page of this application.

It should be noted, however, that data bearing the aforementioned legend may be subject to release under the provisions of the Freedom of Information Action (FOIA), if DOE or a court determines that the material so marked is not exempt under the FOIA. The Government assumes no liability for disclosure or use of unmarked data and may use or disclose such data for any purpose.

Applicants are hereby notified that DOE intends to make all applications submitted available to non-Government personnel for the sole purpose of assisting the DOE in its evaluation of the applications. These individuals will be required to protect the confidentiality of any specifically identified information obtained as a result of their participation in the evaluation.

b. Budget: A budget period is an interval of time (12 months) into which the project period is divided for funding and reporting purposes. Project period means the total approved period of time that DOE will provide support contingent upon satisfactory progress and availability of funds. The project period may be divided into several budget periods. Each application must contain a Standard Form 424A, Budget Information Form.

Items of needed equipment should be individually listed by description and estimated cost, inclusive of tax, and adequately justified. The type and extent of budgeted travel and its relation to the research should be specified. Anticipated consultant services should be justified and information furnished on each individual's expertise, primary organizational affiliation, daily compensation rate and number of days of expected service. Consultant's travel costs should be listed separately under travel in the budget.

3. Notices to Applicants.

a. False Statements: Applicants must set forth full, accurate, and complete information as required by this solicitation. The penalty for making false statements is prescribed in 18 U.S.C. 1001.

b. Application Clarification: DOE reserves the right to require applications to be clarified or supplemented to the extent considered necessary either through additional written submissions or oral presentations.

c. Amendments: All amendments to this solicitation will be mailed to

recipients who submit a written request for the application forms.

d. Applicant's Past Performance: DOE reserves the right to solicit from available sources relevant information concerning an applicant's past performance and may consider such information in its evaluation.

e. Commitment of Public Funds: The Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed award. Any other commitment, either explicit or implied, is invalid.

f. Effective Period of Application: All applications should remain in effect for at least 180 days from the closing date.

g. Availability of Funds: The actual amount of funds to be obligated in each fiscal year will be subject to availability of funds appropriated by Congress.

h. Assurances and Certifications: DOE requires the submission of preaward assurances of compliance and certifications which are mandated by law. The assurance and certification forms will be provided in the application package.

i. Preaward Costs: The government is not liable for any costs incurred in preparation of an application. Awardees may incur preaward costs up to ninety (90) days prior to the effective date of award. Should the awardee take such action, it is done so at the awardee's risk and does not impose any obligation on the DOE to issue an award.

j. Patents, Data, and Copyrights: Applicants are advised that patents, data, and copyrights will be treated in accordance with 10 CFR 600.33.

k. Environmental Impact: An applicant environmental checklist will be provided in the application package. Award will not be made until all environmental requirements are completed.

l. To facilitate handling, please place the solicitation number DE–PS07–94ID13285 on the outside of the application/proposal package.

Procurement Request Number: 07–94ID13285.000

Dated: January 26, 1994.

David W. Newnam,

Director, Procurement Services Division.

[FR Doc. 94–2597 Filed 2–3–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EC94–9–000, et al.]

Multitrade of Pittsylvania County, L.P. et al.; Electric Rate and Corporate Regulation Filings

January 26, 1994.

Take notice that the following filings have been made with the Commission:

1. Multitrade of Pittsylvania County, L.P.

[Docket No. EC94–9–000]

Take notice that on January 25, 1994, Multitrade of Pittsylvania County, L.P. ("MPC") (c/o James B. Vasile, Newman & Holtzinger, P.C., 1615 L Street, NW, suite 1000, Washington, DC 20036) tendered for filing an Application for Approval of Sale of Partnership Interest Pursuant to Section 203 of the Federal Power Act. MPC proposes to transfer a limited partnership interest to Energy Investors Fund II, L.P. MPC is engaged in the construction of a qualifying small power production facility which is subject to the Federal Power Act.

Comment date: February 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. 2322133 Nova Scotia Limited

[Docket No. EG94–17–000]

On January 18, 1994, 2322133 Nova Scotia Limited (Holding Sub) c/o Kelly A. Tomblin, Energy Initiatives, Inc., One Upper Pond Road, Parsippany, New Jersey 07054 filed an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Holding Sub is a Nova Scotia corporation formed to acquire all of the capital stock of two subsidiaries. One such subsidiary will acquire a limited partnership interest in Brooklyn Energy Limited Partnership, a Nova Scotia limited partnership formed to own an electric and steam generating facility to be located in Brooklyn, the Province of Nova Scotia, Canada. The other subsidiary will perform certain operation and maintenance services for the facility.

Comment date: February 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Citizens Utilities Company

[Docket No. ER93–889–000]

Take notice that Citizens Utilities Company (Citizens) on January 14, 1994, tendered for filing a second amendment to its filing in the above-captioned docket. The amendment serves to address certain questions raised in a December 15, 1993, deficiency letter.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Citizens Utilities Company

[Docket No. ER93–890–000]

Take notice that Citizens Utilities Company (Citizens) on January 14, 1994, tendered for filing a second amendment to its filing in the above-captioned docket. The amendment serves to address certain questions raised in a December 15, 1993, deficiency letter.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER93–920–000]

Take notice that New England Power Company (NEP), on January 13, 1994, tendered an amendment to its compliance filing in this proceeding. The amended compliance filing includes Second Revised Page 5 and First Revised Pages 6 through 9, Schedule II of NEP's Tariff No. 8.

Comment date: February 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Enron Power Marketing, Inc.

[Docket No. ER94–24–002]

Take notice that on January 3, 1994, Enron Power Marketing, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Company

[Docket No. ER94–214–000]

Take notice that on January 14, 1994, Portland General Electric Company (PGE) tendered for filing supplemental information to its original filing in this Docket. The supplemental information consists of twelve (12) consecutive monthly billing statements for service provided under the General Transfer Agreement Between the Bonneville Power Administration (BPA) and PGE.

PGE requests waiver of the notice requirements to allow the amendments to take effect December 8, 1993. PGE requests waiver of the requirements of 18 CFR section 35.13 that it file cost support data other than as provided in PGE's filings. Also, PGE requests expedited Commission attention to this matter so that PGE can begin service in anticipation of the possibility of emergency conditions due to cold winter weather.

Copies of this filing have been served on BPA.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Power & Light Company

[Docket No. ER94–621–000]

Take notice that on January 11, 1994, Pennsylvania Power & Light Company (PP&L) supplemented its December 30, 1993 filing in this docket by tendering for filing as initial rate schedules five point-of-delivery borderline interchange memoranda with Pennsylvania Electric Company (Penelec). Two of these memoranda are more legible copies of the same documents filed on December 30, 1993; two are more recent novations of documents filed on December 30, 1993; and one is newly discovered and filed. PP&L has requested the Commission to relate the date of this supplemental filing back to the original filing, and, in accordance with the Commission's recently announced policy on the filing of jurisdictional service agreements, PP&L requests the Commission to make these service agreements effective as of that date. PP&L states that the borderline sales are based on state commission approved retail rates.

PP&L states that copies of the filing were served on Penelec.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Potomac Electric Power Company

[Docket No. ER94–900–000]

Take notice that on January 11, 1994, Potomac Electric Power Company (Pepco) tendered for filing an As-Available Transmission Service Tariff for transactions of up to one year, including a form of service agreement and form of application for service. Eligible entities include electric utilities and non-utility generators. An effective date of March 14, 1994 for the transmission tariff is requested.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER94–901–000]

Take notice that New England Power Company (NEP), on January 12, 1994, tendered for filing a service agreement and certificate of concurrence with Vermont Marble Power Division of OMYA, Inc. under NEP's FERC Electric Tariff, Original Volume No. 5. NEP seeks an effective date of December 20, 1993 for the service agreement and an effective date of sixty days from its filing for the certificate of concurrence.

Comment date: February 9, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER94–903–000]

Take notice that on January 13, 1993, Southern California Edison Company (Edison) tendered for filing the following agreement, executed on September 15, 1993, by the respective parties:

Power Purchase Agreement Between Nevada Power Company and Southern California Edison Company

The Agreement provides the terms and conditions whereby Edison shall make available and Nevada Power Company shall purchase 100 MW of Contract Capacity and Associated Energy during each Delivery Season.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: February 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER94–904–000]

Take notice that on January 13, 1994, Wisconsin Public Service Corporation (WPSC) tendered for filing a modification to its service agreement with the City of Wisconsin Rapids Water Works and Lighting Commission, pursuant to which Wisconsin Rapids takes service under WPSC's W–1 Tariff. The modification provides for Wisconsin Rapids to take a service on a month-to-month basis pending the effective date of a power supply agreement between WPSC and Wisconsin Rapids.

WPSC states that copies of this filing have been served on Wisconsin Rapids and on the Public Service Commission of Wisconsin and that a copy has been posted in accord with Commission regulations.

Comment date: February 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. WestPlains Energy, a Division of UtiliCorp United, Inc.

[Docket No. ER94–907–000]

Take notice that on January 14, 1994, WestPlains Energy, a division of UtiliCorp United, Inc. (WestPlains) tendered for filing revised full requirements contracts between WestPlains and the cities of Isabel and Luray Kansas. Both of these cities currently take full requirements service pursuant to Service Schedule 88–MWH–5. Under the new agreements, the cities will take service pursuant to existing Service Schedule 89–MWH–5. WestPlains requests that the agreements be made effective as soon as practicable, but in no event later than 60 days from the date of this filing

A copy of the filing was served on each of the cities and the Kansas Corporation Commission.

Comment date: February 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Panda-Brandywine, L.P.

[Docket No. QF94–31–001]

On December 28, 1993, Panda-Brandywine, L.P. of 4100 Spring Valley Road, Suite 1001, Dallas, Texas 75244, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the topping-cycle cogeneration facility, which will be located in Brandywine, Maryland, will consist of two combustion turbines, and two heat recovery steam generators with a maximum net electric power production capacity of 283 MW. Installation of the facility is expected to commence in October, 1994.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2566 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG94–14–000, et al.]

Southern Wholesale Generators, Inc., et al.; Electric Rate and Corporate Regulation Filings

January 27, 1994.

Take notice that the following filings have been made with the Commission:

1. Southern Wholesale Generators, Inc.

[Docket No. EG94–14–000]

On January 7, 1994, Southern Electric Wholesale Generators, Inc. (Southern) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

In SEI Hawaiian Cogenerators, Inc., et al., 63 FERC ¶ 61,261 (1993), the Commission determined that Southern is an EWG. The Commission based that determination upon the information contained in an application filed by Southern on April 8, 1993. Southern now wishes to engage in activities in addition to those described in its April 8, 1993 application. The additional activities relate to the development of and the acquisition of ownership interests in as-yet unidentified eligible facilities and/or EWGs.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa-Illinois Gas and Electric Company

[Docket No. ER94–911–000]

Take notice that on January 19, 1994, Iowa-Illinois Gas and Electric Company (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, tendered for filing pursuant to § 35.13 of the Regulations under the Federal Power Act a rate schedule change in the form of the Seventh Amendment dated November 30, 1993 (Amendment) to Interchange Agreement dated July 30, 1968 (Agreement) between Iowa-Illinois and Union Electric Company (UE). The Agreement was accepted for filing by the Federal Power Commission effective on September 22, 1968 and designated as UE Rate Schedule FPC No. 72 and Iowa-Illinois Rate Schedule FPC No. 23. The Agreement has been previously supplemented by six amendments which have been accepted for filing by the Commission or its predecessor.

Iowa-Illinois states that the Amendment applies only to transactions between Iowa-Illinois and UE and that UE has executed a Certificate of Concurrence asserting to the Amendment. The Amendment requires UE to Purchase fault location relaying equipment for installation at Substation T in order to improve reliability on the Montgomery-Substation T line. The equipment will be installed, owned, operated and maintained by Iowa-Illinois.

The Amendment provides that it will be effective upon acceptance of the Amendment for filing by the Commission. Iowa-Illinois requests the Commission to accept the Amendment for filing by March 31, 1994.

Copies of the filing were served upon the Illinois Commerce Commission, the Iowa Utilities Board, the Missouri Public Service Commission and UE.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company Public Service Company of New Hampshire

[Docket No. ER94–912–000]

Take notice that on January 19, 1994, Northeast Utilities Service Company (NUSCO) on behalf of The Connecticut Light and Power Company (CL&P) and Public Service Company of New Hampshire (PSNH), submitted an Addendum dated January 7, 1994 which provide for changes to a Short Term Supply Agreement with New York Power Authority (NYPA).

NUSCO states that copies of its submission have been mailed or delivered to New York Power Authority.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. New York State Electric & Gas Corporation

[Docket No. ER94–915–000]

Take notice that on January 19, 1994, New York State Electric & Gas Corporation (NYSEG), tendered for filing proposed changes in its FERC Rate Schedules for borderline sales to Pennsylvania Electric Co., Massachusetts Electric Co., Niagara Mohawk Power Corp., Rochester Gas & Electric Co., Central Hudson Gas & Electric Co., Organge & Rockland Utilities, Inc., Consolidated Edison Company of New York, Inc., and Connecticut Light & Power Co., (Rate Schedule FERC Nos. 20, 27, 28, 30, 32, 33, 35 and 105, respectively). NYSEG is filing the information pursuant to § 35.13 of the Commission's Rules of Practices and Procedure, 18 CFR 35.13. NYSEG is requesting an effective date of September 4, 1993 for the tariff rate changes. Accordingly, NYSEG has also requested a waiver of Commission's notice requirements for good cause shown.

NYSEG has sent a copy of this filing to: Central Hudson Gas & Electric Corp.; Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corp.; Orange & Rockland Utilities, Inc.; Rochester Gas & Electric Corp.; New York State Public Service Commission; Pennsylvania Electric Co.; Pennsylvania Public Utility Commission; Massachusetts Electric Co.; Massachusetts Dept. of Public Utilities; Connecticut Light & Power Co.; and the Connecticut Dept. of Public Utility Control.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Indiana Gas and Electric Company

[Docket No. ER94–916–000]

Take notice that on January 21, 1994, Southern Indiana Gas and Electric Company (Southern Indiana) tendered a Letter Agreement and request for term extension of its rate schedule FPC–29 under which it sells standby electrical power to Alcoa Generating Corporation (AGC). The change is for a one (1) year term extension only and will result in no rate increase or decrease or revenue change. Southern Indiana has requested a waiver of the minimum 60 day notice requirement. The only affected customer is the purchaser, AGC. Southern Indiana and AGC are parties to a written Letter Agreement executed on August 1, 1991, for the service, to a written Letter Agreement for extension of the service dated January 13, 1993, and a written Letter Agreement for a further extension of the term of the service for one year from January 12, 1994.

The reason for the Letter Agreement extending the term is to give the parties additional time to negotiate and file a long term rate. The Term Extension Agreement is therefore mutually beneficial.

A copy of the filing has been served upon AGC.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Light Company

[Docket No. ER94–918–000]

Take notice that on January 14, 1994, Central Illinois Light Company (CILCO), tendered for filing a Notice of Cancellation of Service Schedule A of

its FERC Electric Service Tariff, Rate Schedule No. 28, to be effective December 10, 1993, based on notification presented by the Illinois Municipal Electric Agency (IMEA). CILCO has requested approval of this cancellation to be effective December 10, 1993, and for waiver of the notice provisions of § 35.15 of the Commission's Regulations.

Copies of the filing were served upon IMEA and the Illinois Commerce Commission.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Gulf States Utilities Company

[Docket No. ER94–919–000]

Take notice that on January 21, 1994, Gulf States Utilities Company (Gulf States) tendered for filing a maintenance agreement between Gulf States and the Vinton Public Power Agency (VPPA). Gulf States states that the agreement may be jurisdictional under the Commission's order issued July 30, 1993, in Docket No. PL93–2. Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 FERC ¶ 61,139 (1993).

The agreement provides that Gulf States will perform routine maintenance of RTU and communications equipment at the Marshall substation and that VPPA will pay for such service annually based on the actual cost of such maintenance.

Gulf States requests that the Commission disclaim jurisdiction the agreement because (i) it involves non-jurisdictional facilities, (ii) it only permits routine maintenance, and (iii) it is *de minimis*.

Copies of the filing were served upon the VPPA and the Louisiana Public Service Commission.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Appalachian Power Company

[Docket No. ER94–920–000]

Take notice that on January 21, 1994, Appalachian Power Company (APCo), tendered for filing with the Commission an Addendum to the existing Electric Service Agreement between APCo and Central Virginia Electric Cooperative, Inc. (CVEC). The Addendum adds a new delivery point for CVEC.

APCo proposes an effective date of November 1, 1994, and states that a copy of its filing was served on CVEC and the Virginia State Corporation Commission.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Company

[Docket No. ER94–921–000]

Take notice that Portland General Electric Company (PGE), on January 21, 1994, tendered for filing its Average System Cost (ASC) as calculated by PGE and determined by the Bonneville Power Administration under the revised ASC Methodology which became effective on October 1, 1984. This filing includes PGE's revised Appendix 1 of the Residential Purchase and Sale Agreement.

PGE states that the revised Appendix 1 shows the ASC to be 33.66 mills/kWh effective May 20, 1993. The Bonneville Power Administration determined the ASC rate for PGE to be 33.66 mills/kWh.

Copies of the filing have been served on the persons named in the transmittal letter as included in the filing.

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. James G. Martin

[Docket No. ID–2815–000]

Take notice that on January 24, 1994, James G. Martin filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—J.A. Jones, Inc. (Electrical Equipment Supplier).
Director—Duke Power Company (Public Utility).

Comment date: February 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2563 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2496]

Eugene Water & Electric Board; Notice of Intent to Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings

January 27, 1994.

The Federal Energy Regulatory Commission (FERC) has received an application for a new license for the Leaburg-Walterville Hydroelectric Project, FERC No. 2496. The hydropower project is located on the McKenzie River in Oregon.

The FERC staff has determined that licensing this project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the hydroelectric project in accordance with the National Environmental Policy Act.

The staff's EIS will objectively consider both site specific and cumulative environmental impacts of the project and reasonable alternatives, and will include an economic, financial and engineering analysis.

The draft EIS will be issued and circulated for review by all the interested parties. All comments filed on the draft will be analyzed by the staff and considered in a final EIS. The staff's conclusions and recommendations will then be presented for consideration by the Commission in reaching a licensing decision.

Scoping Meeting

A project site visit for FERC staff, agencies and all other interested parties is scheduled for Tuesday, February 15, 1994. The site visit will commence at 9 a.m. at Water Board Park located adjacent to the Leaburg Dam, just off of Highway 126. The site visit will likely extend into the afternoon. The site visit will provide an opportunity for interested parties to observe environmental conditions in the project area. All those interested are encouraged to attend.

The FERC staff will conduct two scoping meetings. The evening scoping meeting is primarily for public input while the morning meeting will focus on resource agency concerns. All interested individuals, organizations, and agencies are invited to attend either or both sessions to assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS.

On the evening of Wednesday, February 16, 1994, we will hold the first scoping meeting, primarily for the public, from 7–10 p.m. at the Thurston

High School Auditorium in Springfield, Oregon. The high school is located just off Highway 126, at 333 North 58th Street.

The second scoping meeting, primarily for resource agencies, will be from 9:30 a.m.–12 p.m. the following morning, Thursday, February 17, 1994, at the Springfield Chamber of Commerce, Freight Room. The Springfield Chamber of Commerce is located on South A Street, between Mill Street and Pioneer Parkway West.

To help focus discussions, a preliminary EIS scoping document (Scoping Document 1) outlining subject areas to be addressed at the meetings will be distributed by mail to parties on the FERC service list. Copies of Scoping Document 1 will also be available at the scoping meetings.

Objectives

At the scoping meetings the staff will:

- Identify reasonable alternative measures that should be evaluated in the EIS;
- Identify significant environmental issues related to the proposed project;
- Determine the depth of analysis for issues addressed in the EIS; and
- Identify resource issues that are not important and that do not require detailed analysis.

Procedures

The meetings will be recorded by a stenographer and all statements (oral and written) thereby become a part of the formal record of the Commission proceedings on the Leaburg-Walterville Project. Individuals presenting statements at the meeting will be asked to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend either or both of the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EIS.

Concerned parties are encouraged to offer us verbal guidance during public meetings. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

People choosing not to speak, but wishing to express an opinion, as well as speakers unable to summarize their positions within their allotted time, may submit written statements at the meeting for inclusion in the public record.

Written scoping comments may also be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, until March 18, 1994. Filings by the applicant and intervenors should contain an original and eight copies. Other interested parties may file original comments without copies, but failure to file an original and eight copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h).

All correspondence should clearly show the following caption on the first page:

Leaburg-Walterville Hydroelectric Project, FERC No. 2496, Oregon

All those attending the meeting are urged to refrain from making any communication concerning the merits of the application(s) to any member of the Commission staff or the Commission's contractor outside of the established process for developing the record as stated above. Any such communications will be entered by staff into the record of the proceeding.

Further, interested persons are reminded of the Commission's Rules of Practice and Procedure, requiring participants (as defined in 18 CFR 385.2010) filing documents with the Commission, to serve a copy of the document on each person whose name is on the official service list for this proceeding. See 18 CFR 4.34(b).

For further information please contact Edward R. Meyer at (202) 208–7998.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2504 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2689–001 Wisconsin]

Scott Paper Company; Availability of Draft Environmental Assessment

January 31, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the existing Oconto Falls Hydroelectric Project located on the Oconto River in Oconto County, near the City of Oconto Falls, Wisconsin, and has prepared a draft Environmental Assessment (EA) for the project.

Copies of the draft EA are available for review in the Public Reference Branch, Room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 2689–001 to all comments. For further information, please contact Mr. Ed Lee, Project Manager, at (202) 219–2809.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2497 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2315, 2331, 2332]

South Carolina Electric & Gas Co. and Duke Power Co.; Revised Notice of Intent To Prepare An Environmental Assessment and Conduct Public Scoping Meetings and Site Visit

January 28, 1994.

The Federal Energy Regulatory Commission (FERC) has received applications for relicensing of the existing Gaston Shoals Project, Project No. 2332, Ninety-nine Islands Project, Project No. 2331, and Neal Shoals Project, Project No. 2315. All the projects are located on the Broad River. Gaston Shoals and Ninety-nine Islands are located near Gaffney, South Carolina. Neal Shoals is located near Carlisle, South Carolina.

The FERC staff intends to prepare a Multiple Environmental Assessment (MEA) on the hydroelectric projects in accordance with the National Environmental Policy Act.

The MEA will consider both site-specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic and engineering analysis.

A draft MEA will be issued and circulated for review by all interested parties. All comments filed on the draft MEA will be analyzed by the staff and considered in the final MEA. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

Scoping Meetings

We have revised our meeting date and location. Two scoping meetings will be conducted;

Wednesday, February 16, 1994—10 a.m. and 7 p.m.

Stephenson Dining Hall, Limestone College, Gaffney, South Carolina

Interested individuals, organizations, and agencies are invited to attend either

or both meetings and assist the staff in identifying the scope of environmental issues that should be analyzed in the MEA. The morning meeting is oriented toward the resource agencies and the evening meeting toward the public. To help focus discussions at the meetings, a scoping document outlining subject areas to be addressed in the MEA will be mailed to agencies, organizations, and interested individuals on the FERC mailing list. Copies of the scoping document will also be available at the scoping meetings.

Objectives

At the scoping meeting, the FERC staff will: (1) Identify preliminary environmental issues related to the proposed projects; (2) identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the MEA; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the MEA, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and assist the staff in defining and clarifying the issues to be addressed in the MEA.

Persons choosing not to speak at the meetings but who have views on issues or information relevant to the issues may submit written statements for inclusion in the public record at the meeting. In addition, written comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC, 20426, until March 18, 1994.

All written correspondence should clearly show the following caption on the first page: Gaston Shoals Project, FERC No. 2332, Ninety-nine Islands Project, FERC No. 2331, and Neal Shoals Project, FERC No. 2315.

Intervenors—those on the Commission's service list for this proceeding (parties)—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list. Further, if a party or interceder files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Site Visit

We have revised the date of the site visit to the Gaston Shoals, Ninety-nine Islands and Neal Shoals Projects. We now plan on having a site visit on February 15, 1994. Those who wish to attend should plan to meet at the Gaston Shoals Powerhouse at 9 a.m. Any questions regarding the site visit or this notice should be directed to Tim Looney at the Federal Energy Regulatory Commission, Office of Hydropower Licensing, 825 North Capitol Street, NE., Washington, DC 20426, (202) 219–2852.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2503 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11313–000 New Hampshire]

White Mountain Hydroelectric Company, Availability of Draft Environmental Assessment

January 31, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor original license for the Apthorp Project, located on the Ammonoosuc River, in Grafton county, New Hampshire and has prepared a Draft Environmental Assessment (draft EA) for the project. In the draft EA, the Commission's staff has analyzed the environmental impacts of the existing project and the proposed expansion, and has concluded that approval of the project, with appropriate mitigation or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the draft EA are available for review in the Public Reference Branch, Room 3104 of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Please submit any comments within 30 days from the date of this notice. Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 11313 to all comments. For further information, please contact CarLisa Linton, Environmental Coordinator, at (202) 219–2802.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2499 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11351–000 Tennessee]

Debra Whitehead; Availability of Draft Environmental Assessment

January 31, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Old Columbia Dam Hydroelectric Project located on the Duck River in Maury County, Tennessee, and has prepared a draft Environmental Assessment (DEA) for the proposed project.

Copies of the EA are available for review in the Public Reference Branch, Room 3308 the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 11351–000 to all comments. For further information, please contact Mark Pawlowski, Environmental Assessment Coordinator, at (202) 219–2795.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2498 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2613–008, et al.]

Hydroelectric Applications [Central Maine Power Company, et al.]

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Surrender of License.

b. *Project No:* 2613–008.

c. *Date Filed:* December 22, 1993.

d. *Licensees:* Central Maine Power Company, Madison Paper Industries, Scott Paper Company, Merimil Limited Partnership, Augusta Development Corp.

e. *Name of Project:* Moxie.

f. *Location:* On Moxie Stream in Somerset County, Maine.

g. *Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Licensee Contact:* Gary D. Bachman, Van Ness, Feldman & Curtis,1050 Thomas Jefferson St., N.W., Seventh Floor, Washington, DC 20007, (202) 298–1800.

i. *FERC Contact:* Dean C. Wight, (202) 219–2675.

j. *Comment Date:* February 28, 1994.

k. *Description of Proposed Action:* The existing project provides storage for downstream projects in the Kennebec River Basin, and consists of: (1) A gated, 19-foot-high concrete dam 570 feet long; (2) three smaller concrete closure dams; (3) a 140-foot-long earthen and concrete dike; (4) a 2,231-acre impoundment (known as Lake Moxie or Moxie Pond); and (5) appurtenant facilities. There are no power generation facilities.

Licensees propose to sell the project facilities to the town of Forks Plantation, Maine (the town in which the project is located), after licensees perform certain structural improvements and repairs. Thereafter the town will operate the project for non-jurisdictional purposes such as environmental, recreational, and aesthetic enhancement, according to the licensees.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

2 a. *Type of Application:* Surrender of License.

b. *Project No.:* 10521–009.

c. *Date filed:* December 15, 1993.

d. *Applicant:* Mahoning Hydro Associates.

e. *Name of Project:* Mahoning Creek Hydro Project.

f. *Location:* On Mahoning Creek near Putneyville Armstrong County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Keith M. Arndt, President, Synergics, Inc., 191 Main Street, Annapolis, MD 21401, (410) 268–8820.

i. *FERC Contact:* Hank Ecton, (202) 219–2678.

j. *Comment Date:* February 28, 1994.

k. *Description of Project Action:* The license for this project, with a proposed capacity of 5,000 kilowatts (Kw), was issued on May 7, 1990. The licensee proposed to utilize an existing Corps of Engineers dam, and to construct a powerhouse, installing two 2,500–Kw generating units.

The licensee states that the project is no longer economically feasible. No construction has occurred, and the proposed site remains unaltered.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

3 a. *Type of Application:* New License.

b. *Project No.:* 2459–005.

c. *Date filed:* December 20, 1991.

d. *Applicant:* West Penn Power Company.

e. *Name of Project:* Lake Lynn.

f. *Location:* On the Cheat River in Monongalia County, West Virginia and Fayette County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. D. E. Gervenak, Executive Director, Operating, Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601, (412) 838–6835.

i. *FERC Contact:* James Hunter at (202) 219–2839.

j. *Deadline Date:* March 28, 1994.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The Lake Lynn Hydro Station consists of: (1) A 125-foot-high, 1,000-foot-long concrete gravity type dam with a 624-foot-long spillway controlled by 26 tainter gates, each 17 feet high by 21 feet long; (2) a reservoir with a surface area of 1,700 acres and containing 72,000 acre-feet of water at full pool elevation 870 feet; (3) a log boom and trash racks at the intake facility; (4) eight 12-foot by 18-foot, gated penstocks of reinforced concrete; (5) a 72-foot by 165-foot, 68-foot-high red brick powerhouse containing four identical generating units with a total rated capacity of 51.2 megawatts; and (6) dual 800-foot-long, 138-kV transmission lines.

m. *Purpose of Project:* The average annual generation of the Lake Lynn project is 132.7 GWh. Power generated at the project is delivered to customers within the applicant's service area.

n. *This notice also consists of the following standard paragraph:* D10.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., Room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Allegheny Power Service Corporation's offices at 800 Cabin Hill Drive, Greensburg, Pennsylvania.

4 a. *Type of Application:* Amendment of Exemption.

b. *Project No.:* 6952–005.

c. *Date Filed:* January 5, 1994.

d. *Applicant:* McMillan Hydro Company.

e. *Name of Project:* McMillan Project.

f. *Location:* On the North Fork of the Little Cow Creek in Shasta County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Finley McMillan, McMillan Hydro, Inc., P.O. Box 130, Round Mountain, CA 96084, (916) 337–6581.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* March 3, 1994.

k. *Description of Filing:* McMillan Hydro Company proposes to revise the project description of its exemption to reflect the as-built conditions of the McMillan Project. In 1984, the exemptee constructed two hydropower developments.

Powerhouse #1 contains two generating units, one rated at 500 kW and one rated at 199 kW. Powerhouse #2 contains a 275-kW generating unit. This is different from the authorized project features which consist of three powerhouses containing a total of six generating units and a total generating capacity of 975 kW. Powerhouse #1 was constructed in the same location of one of the authorized powerhouses. Powerhouse #2 was constructed near Cedar Creek, approximately 4,500 feet away from the site of the nearest authorized powerhouse.

l. *This paragraph also consists of the following standard paragraphs:* B, C1, and D2.

5 a. *Type of Application:* Exemption of Small Conduit Hydroelectric Facility.

b. *Project No.:* 11441–000.

c. *Date filed:* October 13, 1993.

d. *Applicant:* Metropolitan Water District of Southern California.

e. *Name of Project:* Etiwanda Small Conduit Hydroelectric Power Plant.

f. *Location:* On the existing Etiwanda Pipeline in the City of Rancho Cucamonga, San Bernardino County, California; T1S, R6W, in Section 8.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Richard Balcerzak, Assistant General Manager, The Metropolitan Water District of Southern California, P.O. Box 54153, Terminal Annex, Los Angeles, CA 90054, (213) 217–6000.

i. *FERC Contact:* Mr. Surender M. Yepuri, P.E., (202) 219–2847.

j. *Deadline Date:* March 22, 1994.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of Project:* The proposed project consists of a masonry

powerhouse, about 64 feet long and 58 feet wide, containing a turbine with an installed capacity of 23.9 Megawatts (project excludes the existing conduit on which the powerhouse is proposed). The average annual generation is 256 MWh.

m. *Purpose of Project:* Power will be sold to a local utility.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B, and D4.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE, room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction with the applicant contact listed above.

6 a. *Type of Application:* Amendment of License.

b. *Project No.:* 6842–060.

c. *Date Filed:* January 3, 1994.

d. *Applicant:* City of Aberdeen, Washington and City of Tacoma, Washington.

e. *Name of Project:* Wynoochee Dam.

f. *Location:* Grays Harbor County, Washington, on the Wynoochee River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Gary E. Johnson, City of Tacoma, Department of Public Utilities, P.O. Box 11007, Tacoma, WA 98411, (206) 383–2471.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* March 3, 1994.

k. *Description of the Request:* The co-licensees request that their license be amended to include the dam and reservoir within the project's boundaries. The amendment is necessary because of Congressional legislation that authorized the fee title transfer of the Wynoochee Dam from the Corps of Engineers to the City of Aberdeen.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

7 a. *Type of Filing:* Major New License.

b. *Project No.:* 2493–006.

c. *Date Filed:* November 25, 1991.

d. *Applicant:* Puget Sound Power & Light Company.

e. *Name of Project:* Snoqualmie Falls.

f. *Location:* On the Snoqualmie River in King County, Washington.

g. *Filed pursuant:* Federal Power Act, 16 U.S.C., section 791(a)–825(r).

h. *Applicant Contacts:* Mr. W. J. Finnegan, Vice President, Engineering, Puget Sound Power & Light Company, One Bellevue Center, P.O. Box 97034, Bellevue, WA 98009–9734, (206) 454–6363.

i. *FERC Contact:* Héctor M. Pérez, (202) 219–2843.

j. *Comment Date:* March 22, 1994.

k. *Status of Environmental Analysis:* This application is now ready for environmental analysis at this time—see attached paragraph D9.

l. *The existing project consists of:* (1) A 18.5-foot-high, 217-foot-long concrete and wooden dam 150 feet upstream from the Snoqualmie Falls, with 4.5-foot-high flashboards and lift gates, creating an impoundment with a storage capacity of 390-acre-feet; (2) an intake structure on the south bank of the river about 150 feet upstream from the dam feeding; (3) two 7.5-foot-diameter steel penstocks, in 270-foot-long vertical rock shafts leading to; (4) Plant 1 which is an underground powerhouse containing 5 generating units with a total capacity of 11,900 kW; (5) a 317-foot-long, 115-kV transmission line; (6) an intake structure on the north bank about 50 feet upstream from the dam feeding; (7) a 12-foot-diameter, 1,215-foot-long concrete lined tunnel leading to; (8) a small forebay and then to an 8-foot-diameter, 600-foot-long steel penstock for unit 1 and two 7-foot-diameter, 75-foot-long steel penstock which will combine into a 10-foot-diameter, 515-foot-long steel penstock for unit 2 leading to; (9) Plant 2 which is an above ground powerhouse with 2 generating units with a total capacity of 30,090 kW; (10) a 0.5-mile-long, 115-kV transmission line; and (11) other appurtenances. The project has an average annual generation of 256,000 MWH.

The applicant proposes to: (1) Refurbish the dam and add spillway capacity; (2) refurbish the intake structure for Plant 1; (3) replace the existing penstocks to Plant 1 for an 8-foot-diameter steel penstock; (4) replace the 5 existing units in Plant 1 with a new 9-MW unit; (5) abandon the existing and construct a new intake for Plant 2; (6) replace the existing tunnel and penstocks to Plant 2 with a 20-foot-diameter, 250-foot-long vertical shaft and a 1,575-foot-long, 18-foot-high by 18-foot-wide horseshoe concrete-lined tunnel; and (7) upgrade the 2 existing units in Plant 2 and extend the powerhouse to install a new unit for a total capacity of 64,000 kW.

After upgrades and equipment additions, the project would have a total installed capacity of 73 MW with an average annual generation of 381,000 MWH.

m. *Purpose of this Project:* The energy generated by the project is used by the applicant in its system. The applicant is an investor-owned utility company.

n. This notice also consists of standard paragraph D9.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE, room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Puget Sound Power & Light Company, One Bellevue Center, P.O. Box 97034, Bellevue, WA 98009–9734 (206) 454–6363.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will

consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D4. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (March 22, 1994 for Project No. 11441–000). All reply comments must be filed with the Commission within 105 days from the date of this notice (May 6, 1994 for Project No. 11441–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 22, 1994 for Project No. 2493–006). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 6, 1994 for Project No. 2493–006).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 28, 1994 for Project No. 2459–005). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 12, 1994 for Project No. 2459–005).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS

AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: January 31, 1994, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2564 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–185–000, et al.]

Colorado Interstate Gas Company, et al.; Natural Gas Certificate Filings

January 26, 1994.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP94–185–000]

Take notice that on January 18, 1994, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP94–185–000 an application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that it proposes to abandon a certificated agreement related to the transportation and exchange of natural gas by CIG for Columbia Gas Transmission Corporation (Columbia). CIG further states that the agreement, dated June 2, 1980, as amended, constitutes CIG's Rate Schedule X–67 of its FERC Gas Tariff, Original Volume No. 2.

CIG says that Columbia has requested that CIG terminate the agreement as a result of Order No. 636. Columbia will not engage in the merchant function as of November 1, 1993, and consequently will no longer require the transportation service, it is stated.

CIG further states that it does not propose to abandon any facilities as a result of the authorization requested.

Comment date: February 16, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Colorado Interstate Gas Company

[Docket No. CP94–186–000]

Take notice that on January 14, 1994, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP94–186–000 an application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that it proposes to abandon the Transportation Agreement (Agreement) with Sinclair Oil Corporation (Sinclair) pursuant to CIG's Rate Schedule X–41 of its FERC Gas Tariff, Original Volume No. 2. CIG further states that this rate schedule provides that CIG may transport gas produced from reserves owned by Sinclair in the Blue Gap and West Creston areas of Carbon County, Wyoming to Sinclair's refineries. Sinclair has advised CIG that they have sold the properties from which it has in the past several years transported gas to CIG under the referenced transportation agreement and the Agreement is no longer useful to Sinclair, it is stated.

CIG says that it does not propose to abandon any facilities as a result of the authorization requested.

Comment date: February 16, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. Colorado Interstate Gas Company

[Docket No. CP94–187–000]

Take notice that on January 14, 1994, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP94–187–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an injection/withdrawal well, which was authorized in Docket No. CP92–154–000, *et al.*, all as more fully set forth in the application on file with the Commission and open to public inspection.

CIG proposes to abandon the Latigo No. 46 well as an injection/withdrawal well and to convert it to an observation well. It is stated that the well is located in the Latigo Storage Field in eastern Colorado. It is asserted that the well is not functioning adequately as an injection/withdrawal well at this time and would be more useful as an observation well to monitor reservoir pressures and the movement of gas.

Comment date: February 16, 1994, in accordance with Standard Paragraph F at the end of this notice.

4. CNG Transmission Corporation

[Docket No. CP94–189–000]

Take notice that on January 14, 1994, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP94–189–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct a new sales/transportation tap and appurtenant facilities to serve as a delivery point to Kamine/Besicorp Allegany, L.P. (Kamine Allegany) for the transportation of 11,100 Dekatherms (Dt) per day of natural gas for use in its 55 Megawatt Cogeneration Plant located in the Town of Hume, New York, under CNG's blanket certificate issued in Docket No. CP82–537–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

It is stated that Kamine Allegany is constructing a 55 Megawatt gas-fired cogeneration plant in the Town of Hume, New York. It is further stated that Kamine Allegany's plant will cogenerate steam that will be used by an adjacent greenhouse, and electricity that will be purchased by Rochester Gas and Electric Company.

CNG states that Kamine Allegany has made arrangements to transport its 11,100 Dt per day that it needs to fire its cogeneration plant on CNG's interstate pipeline system. In order to deliver Kamine Allegany's gas to the cogeneration plant, CNG must construct a tap, measuring and regulation station, and about 600 feet of 6 inch connecting pipeline. Therefore, CNG is proposing herein to tap into its existing parallel Lines 14 & 24, construct about 600 feet of connecting pipeline to connect with the Kamine Allegany Cogeneration plant, and install a measuring and regulation station, along with various

auxiliary installations (gate valve assembly, a filter/separator, a line heater, various valves and yard and station piping, and buildings) at the point of interconnection with Lines 14 & 24.

The estimated cost of the construction here is $600,000.

Additionally, CNG states that it has sufficient system delivery capacity to deliver the existing contract quantities without disadvantaging its existing customers, either sales or transportation. These deliveries to Kamine Allegany for its cogeneration plant will have a *de minimus* impact on CNG's system wide peak and annual deliveries, CNG states. CNG verifies that the proposed construction complies with the requirements of Subpart F of Part 157 of the Commission's Regulations under the Natural Gas Act.

Comment date: March 14, 1994, in accordance with Standard Paragraph G at the end of this notice.

5. Columbia Gas Transmission Corporation, Columbia LNG Corporation

[Docket No. CP94–191–000]

Take notice that on January 21, 1994, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314–1599, and Columbia LNG Corporation (Columbia LNG), 20 Montchanin Road, Wilmington, Delaware 19807–0020, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon service provided under Columbia's FERC Gas Tariff, Original Volume No. 2, Rate Schedule X–110 and Columbia LNG's FERC Gas Tariff, Original Volume No. 2, Rate Schedule X–1. Under Rate Schedules X–110 and X–1 the companies are authorized to engage in an exchange of gas pursuant to the terms of a Letter Agreement executed by the parties dated August 24, 1982.

Comment date: February 16, 1994, in accordance with Standard Paragraph F at the end of this notice.

6. Columbia Gas Transmission Corporation)

[Docket No. CP94–192–000]

Take notice that on January 21, 1994, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP94–192–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (15 CFR 157.205, 157.211) for authorization to construct and operate facilities necessary to establish six new points of delivery to existing customers for firm transportation service under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to establish the delivery points for the for the following customers:

Customer	Residential	Est. d/qty	Est. annl. qty
Columbia Gas of Ohio	2	23.5 dth	8,180 dth
Mountaineer Gas Company	3	4.5 dth	450 dth
Waterville Gas & Oil Company	1	1.5	140 dth

Columbia expects the quantities to be provided through the new delivery points to be within its authorized level of services. Also, Columbia estimates that the cost of installing the new taps to be approximately $150 per tap and that project No. 1 to cost approximately $14,100, which would be reimbursed by Columbia Gas of Ohio.

Comment date: March 14, 1994, in accordance with Standard Paragraph G at the end of this notice.

7. Tennessee Gas Pipeline Company and Columbia Gulf Transmission Company

[Docket No. CP94–193–000]

Take notice that on January 21, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP94–193–000, a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange service provided pursuant to Tennessee's Rate Schedule X–49 and Columbia Gulf's Rate Schedule X–26, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by order issued June 11, 1976, in Docket No. CP76–237, Tennessee and Columbia Gulf were authorized to exchange natural gas pursuant to an agreement dated December 24, 1975. The agreement, it is said, provided for Tennessee to receive into its jointly owned 30-inch Eugene Island Block 349 facilities up to 25,000 Mcf of natural gas per day produced at Ship Shoal Block 271A for redelivery at Ship Shoal Block 198. It is said further that equivalent quantities of gas would be delivered into the Project 349 pipeline for delivery to Columbia Gulf, for the account of Columbia Gas Transmission Corporation, at the Blue Water Project facilities on Ship Shoal Block 198 pipeline platform where Project 349 terminates.

Tennessee and Columbia Gulf state that there has been no activity pursuant to this exchange for some times and therefore the agreement has been terminated pursuant to mutual written agreement of the parties.

No facilities are proposed to be abandoned herein.

Comment date: February 16, 1994, in accordance with Standard Paragraph F at the end of this notice.

8. Northwest Pipeline Corporation

[Docket No. CP94–194–000]

Take notice that on January 21, 1994, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed an application with the Commission in Docket No. CP94–194–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate a river crossing loop on its Bellingham Lateral in Whatcom County, Washington, all as more fully set forth in the application which is open to the public for inspection.

Northwest proposes to construct and operate approximately 2,600 feet of 12-inch pipeline as a loop adjacent to its existing Nooksack River crossing on the Bellingham Lateral in Whatcom County. Northwest states that the proposed loop would enhance the reliability of service to its existing customers on the lateral by insuring the operational capability of the lateral's river crossing portion. Northwest estimates that it would cost

$900,000 to construct the proposed loop.

Comment date: February 16, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2565 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. JD94–02386T Oklahoma–66]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

January 31, 1994.

Take notice that on January 24, 1993, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Medrano Formation, underlying Section 10 and Section 11, Township 6 North, Range 7 West, Grady County, Oklahoma, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978.

The notice of determination contains Oklahoma's findings that the referenced formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2496 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2613–000]

In the Matter: Central Maine Power Company Madison Paper Industries Scott Paper Company Merimil Limited Partnership, and Augusta Development Corporation.

Authorization for Continued Project Operation

January 31, 1994.

On December 24, 1991, Central Maine Power Company, Madison Paper Industries, Scott Paper Company, Merimil Limited Partnership, and Augusta Development Corporation, licensees for the Moxie Project No. 2613, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2613 is located on the Moxie Stream in Somerset County, Maine.

On April 1, 1993, the licensees filed a notice of withdrawal of their license application that became effective on April 16, 1993, Therefore, as set forth at 18 CFR 16.25, the Commission solicited applications for the project from potential applicants other than from the existing licensees.

The license for Project No. 2613 was issued for a period ending December 31, 1993. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA.

Notice is hereby given that an annual license for Project No. 2613 is issued to Central Maine Power Company, Madison Paper Industries, Scott Paper Company, Merimil Limited Partnership, and Augusta Development Corporation for a period effective January 1, 1994, through December 31, 1994, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before December 31, 1994, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2500 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG91–4–001]

East Tennessee Natural Gas Co.; Filing

January 31, 1994.

Take notice that on January 10, 1994, East Tennessee Natural Gas Company (East Tennessee), filed its response to the order issued on December 23, 1993, in the above-referenced docket.[1] In the order, the Commission required East Tennessee to (i) explain how its merchant division is organized; (ii) identify each officer, director and

[1] 65 FERC ¶61,389 (1993).

employee East Tennessee's transportation division shares with its merchant division and/or marketing affiliate, (iii) provide titles and detailed job descriptions for each shared employee; and (iv) explain how the sharing is consistent with Standard of Conduct G, issued in Order Nos. 497 *et al.*[2]

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2569 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG92–04–000]

Gas Transport, Inc., Filing

January 31, 1994.

Take notice that on January 7, 1994, Gas Transport, Inc. (Gas Transport) filed a response to the order issued December 23, 1993, in the above-referenced docket.[1] In the order, the Commission required Gas Transport to file a report that provides the date(s) it began transportation transactions with its marketing affiliate and explain why it did not file standards of conduct to comply with Order Nos. 497 *et al.*[2] until June 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2571 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–5–000]

Hill Transportation Company, Inc.; Motion to Modify Settlement

January 31, 1994.

Take notice that on December 3, 1993, Hill Transportation Company, Inc., (Hill) filed a motion for limited modification of the May 11, 1991, Stipulation and Agreement in Docket No. PR91–4–000. The purpose of the requested modification is to permit Hill to terminate transportation service under section 3111 of the Natural Gas Policy Act of 1978 (NGPA), rather than filing to rejustify its section 311 rate under section 284.123(b)(2) of the Commission's regulations, as required by the settlement.

Hill notes that the only section 311 service it provided, transportation for DeNovo Oil and Gas, Inc., (DeNovo) terminated on March 1, 1993. Hill provides no other Section 311 services. Hill states that in the event it reinstates service under Section 311, it will at that time make the appropriate filings under Part 284, Subpart C of the Commission's regulations.

Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 22, 1994. The motion is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2495 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG92–05–000]

Kern River Gas Transmission Co.; Filing

January 31, 1994.

Take notice that on January 7, 1994, Kern River Gas Transmission Company (Kern River) filed a response to the order issued December 23, 1993, in the above-referenced docket.[1] In the order, the Commission required Kern River to state whether it has distributed standards of conduct to its employees and state that it will comply with Standards E and I, [2] issued in Order Nos. 497 *et al.*[3]

Kern River states that copies of this filing were served to each person on the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to

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[2] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶61,381 (December 23, 1993).

[1] 65 FERC ¶ 61,388 (1993).

[2] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

[1] 65 FERC ¶ 61,385 (1993).

[2] 18 CFR §§ 161.3 (e) and (i) (1993).

[3] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs ¶ 30,934 (1991), rehearing denied 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2572 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG93–2–000]

Louisiana-Nevada Transit Co.; Filing

January 31, 1994.

Take notice that on January 7, 1994, Louisiana-Nevada Transit Company (LNT) filed a response to the order issued December 23, 1993, in the above-referenced docket.[1] In the order, the Commission required LNT to file a report that shows how it is complying with Standards of Conduct A, B, C, D, I, K and L, 18 CFR 61.3 (a), (b), (c), (d), (i), (k), and (l), issued in Order Nos. 497 *et al.*[2]

LNT states that it has served a copy of the filing upon all of its jurisdictional customers and upon interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2570 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER94–922–000]

Maine Yankee Atomic Power Co.; Filing

January 27, 1994.

Take notice that on January 21, 1994, Maine Yankee Atomic Power Company, tendered for filing proposed changes in its FPC Electric Service Tariff No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $3,417,008 based on the 12 month period ending 1992.

Maine Yankee seeks approval of the proposed increase in order to incorporate in its formula rate the revised estimates of its future decommissioning costs. Maine Yankee also submits with its filing an executed Offer of Partial Settlement on its decommissioning costs and fund collection rate and return on common equity for June 14, 1993, and a continuation of the 10.65% ROE beyond June 14, 1993.

Maine Yankee also is making a compliance filing for amounts to fund post-retirement benefits other than pensions (PBOPs) pursuant to the requirement of SFAS 106. This compliance filing is not included in the Offer of Partial Settlement.

Copies of the filing were served upon Maine Yankee's jurisdictional customers, secondary customers, and Massachusetts Department of Public Utilities, Vermont Public Service Board, Connecticut Public Utilities Control Authority, Maine Public Utilities Commission, New Hampshire Public Utilities Commission and Office of the Public Advocate, State of Maine.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 11, 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. 94–2567 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG90–04–003]

Midwestern Gas Transmission Co., Filing

January 31, 1994.

Take notice that on January 10, 1994, Midwestern Gas Transmission Company ("Midwestern"), filed its response to the order issued on December 23, 1993, in the above-referenced docket.[1] In that order, the Commission required Midwestern to (i) explain how its merchant division is organized; (ii) identify each officer, director and employee Midwestern's transportation division shares with its merchant division and/or marketing affiliate, (iii) provide titles and detailed job descriptions for each shared employee; and (iv) explain how the sharing is consistent with Standard of Conduct G issued in Order Nos. 497 *et al.*[2]

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make

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[1] 65 FERC ¶ 61,384 (1993).

[2] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

[1] 65 FERC ¶ 61,389 (1993).

[2] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats, & Regs. 30, 868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats, & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

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. 94–2574 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG88–12–006 and 007; Docket No. MG88–12–000, et al.]

Mississippi River Transmission Corp.; Filing

January 31, 1994.

Take notice that on January 7, 1994, Mississippi River Transmission Corporation (MRT) filed a response to the Order on Standards of Conduct issued December 23, 1993, in the above-referenced docket.[1] In that order, the Commission required MRT to explain how its merchant division is organized, and identify each officer, director and employee its transportation division shares with its merchant division and/or marketing affiliate. The Commission also required MRT to explain how independent functioning will be guaranteed consistent with Standard of Conduct G,[2] issued in Order Nos. 497 *et al.*[3]

MRT states that copies of this filing have been served on all parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2577 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2438–000]

New York State Electric and Gas Corp.; Authorization for Continued Project Operation

January 31, 1994.

New York State Electric and Gas Corporation, licensee for the Seneca Falls and Waterloo Stations Project No. 2438, filed a notice of intent to file an application for a new license on December 19, 1988. Project No. 2438 is located on the Seneca River in Seneca County, New York. Under section 15(c)(1) of the Federal Power Act (Act), the deadline for filing an application for new license and any competing license applications was December 31, 1991. No applications for license for the project were filed. Therefore, on February 24, 1992, as set forth at 18 CFR 16.25, the Commission issued a notice soliciting applications from potential applicants other than the existing licensee.

The license for Project No. 2438 was issued for a period ending December 31, 1993. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA.

Notice is hereby given that an annual license for Project No. 2438 is issued to New York State Electric and Gas Corporation for a period effective January 1, 1994, through December 31, 1994, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before December 31, 1994, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2501 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG88–19–005]

Tennessee Gas Pipeline Co.; Filing

Jnauary 31, 1994.

Take notice that on January 10, 1994, Tennessee Gas Pipeline Company (Tennessee) filed a response to the Order on Standards of Conduct issued December 23, 1993, in the above-referenced docket.[1] In that order, the Commission required Tennessee to explain how its merchant division is organized, and identify each officer, director and employee its transportation division shares with its merchant division and/or marketing affiliate. The Commission also required Tennessee to explain how such sharing is consistent with Standard of Conduct G,[2] issued in Order Nos. 497 *et al.*[3]

Tennessee states that copies of this filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

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[1] 65 FERC ¶ 61,389 (1993).

[2] 18 CFR 161.3(g).

[3] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC States. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

[1] 65 FERC ¶ 61,389 (1993).

[2] 18 CFR § 161.3(g)(1993).

[3] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2576 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG88–47–004]

Texas Gas Transmission Corp.; Filing

January 31, 1994.

Take notice that on January 7, 1994, Texas Gas Transmission Corporation (Texas Gas) filed a response to the Order on Standards of Conduct issued December 23, 1993, in the above-referenced docket.[1] In that order, the Commission required Texas Gas to identify the senior officers it shares with Transcontinental Gas Pipeline Company and explain how such sharing is consistent with Standard of Conduct G,[2] issued in Order Nos. 497 *et al.*[3]

Texas Gas states that copies of this filing were served upon all parties in the official service list compiled by the Secretary of the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate actions 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. 94–2575 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG93–05–000]

Texas-Ohio Pipeline, Inc.; Filing and Order Granting Extension of Time

January 31, 1994.

Take notice that on January 10, 1994, Texas-Ohio Pipeline, Inc. (Texas-Ohio) filed a partial response to the order issued December 23, 1993, in the above-referenced docket.[1] In the order, the Commission required Texas-Ohio to explain how it will comply with the contemporaneous disclosure requirement of Standard of Conduct F,[2] including whether it maintains and operates an electronic bulletin board. The Commission also required Texas-Ohio to file revised tariff sheets in compliance with 18 CFR 250.16(b).

In the January 10, 1994, response, Texas-Ohio requested an extension of time, until February 16, 1994, in which to file revised tariff sheets. For good cause shown, Texas-Ohio's request for an extension of time is granted.

Texas-Ohio states that copies of this filing have been served upon each person listed on the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–2568 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG91–06–000]

Wyoming Interstate Company, Ltd.; Filing

January 31, 1994.

Take notice that on January 7, 1994, Wyoming Interstate Company, Ltd. (Wyoming) filed a response to the order issued December 23, 1993, in the above-referenced docket.[1] In the order, the Commission required Wyoming to state that it will not disclose to its affiliate any information it receives from a nonaffiliated shipper or potential nonaffiliated shipper, as required by Standard of Conduct E, [2] issued in Order No. 497 *et al.*[3]

Wyoming states that copies of this filing were served on all parties on the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Los D. Cashell,

Secretary.

[FR Doc. 94–2573 Filed 2–3–94; 8:45 am]

BILLING CODE 6717–01–M

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[1] 65 FERC ¶ 61,389 (1993).

[2] 18 CFR § 161.3(g) (1993).

[3] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D, order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

[1] 65 FERC ¶ 61,387 (1993).

[2] 18 CFR 161.3(f), as modified by Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

[1] 65 FERC ¶ 61,390 (1993).

[2] 18 CFR § 161.3(e) 1993).

[3] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No 497–A, order on rehearing, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B order extending sunset date, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, order extending sunset date, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); *Tenneco Gas* v. *FERC* (affirmed in part and remanded in part), 969 F. 2d 1187 (DC Cir. 1992), Order No. 497–D order on remand and extending sunset date, III FERC Stats. & Regs. Preambles ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993).

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4708-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 17, 1994 through January 21, 1994 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D–AFS–K67021–NV Rating EC2, Jerritt Canyon Gold Mine Expansion Project, Implementation, Plan of Operation and COE Section 404 Permit, Humboldt National Forest, Mountain City Ranger District, Elko County, NV.

Summary: EPA expressed environmental concerns regarding the proposed alternative due to potential impacts to water quality, water quantity, air quality and vegetation. EPA recommended that the final EIS provide additional information on these issues as well as cumulative impacts and wetlands mitigation.

ERP No. D–FRA–B53010–00 Rating LO1, Northeast Corridor Improvement Project, Implementation, Electrification of the Rail Main Line from New Haven to Boston, Funding, COE Section 10 and 404 Permits, New Haven, CT and Boston, MA.

Summary: EPA stated that the proposed project had the potential to improve region air quality and that other environmental resources within EPA's jurisdiction and expertise would not be significantly adversely affected by the proposed project.

ERP No. DC–FHW–B40050–MA Rating EC2, Central Artery/I–93 Third Harbor Tunnel/I–90 Extension, Updated and Additional Information, Design Alternatives for the Charles River Crossing, Funding, US COE Section 10 and 404 Permits, US CGD Permits and EPA NPDES Permit, Suffolk County, MA.

Summary: EPA expressed environmental concerns for Clean Air Act conformity requirements to be addressed, and the analysis of shading impacts and compensatory mitigation for adverse environmental impacts to waters of the United States. EPA commented that all three new design alternatives presented in the draft supplemental EIS would have less adverse environmental impact, and less adverse impact on parks and open space, than the alternative (Scheme Z) presented in the 1991 final supplemental EIS as the proposed action.

ERP No. DS–AFS–K65136–CA Rating LO, Casa-Guard Timber Sale, Timber Harvesting, Updated Information concerning Impacts on the California Spotted Owl and Fish Creek Watershed and Reforestation, Sequoia National Forest, Cannell Meadow Ranger District, Tulare County, CA.

Summary: EPA expressed lack of objections with the proposed action.

ERP No. DS–AFS–K65137–CA Rating LO, Cottonwood and Gulf Timber Sales, Timber Harvesting in the Breckenridge Compartment, Updated Information Concerning Withdrawal of the Golf Timber Sale and Impacts on the California Spotted Owl and Reforestation for the Cottonwood Timber Sale, Sequoia National Forest, Greenhorn Ranger District, Kern County, CA.

Summary: EPA expressed lack of objections with the proposed action.

Final EISs

No. F–COE–B40062–NH, Nashua-Hudson Circumferential Highway Improvements, Approval and COE Section 10 and 404 Permits, Towns of Hudson, Nashua and Litchfield, Hillsborough County, NH.

Summary: EPA had environmental objections to the proposed action due to (1) significant degradation of waters of the United States, including wetlands; (2) potential adverse impacts to water supply resources; and (3) the lack of specific mitigation to offset the impacts to waters of the U.S. and drinking water supplies. EPA stated that the proposed action is a likely candidate for action under EPA's Section 404 (c) authority and recommended that the Corps of Engineers deny the Section 404 permit application.

Dated: February 1, 1994.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 94–2606 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–4708–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed January 24, 1994 Through January 28, 1994 Pursuant to 40 CFR 1506.9.

EIS No. 940015, Draft EIS, AFS, OR, Newberry Geothermal Pilot Project, Construction and Operation of a 33-megawatt Power Plant, Approvals, Deschutes, National Forest, Fort Rock Ranger District, Deschutes County, OR, Due: March 21, 1994, Contact: Alice Doremus (503) 383–4703.

EIS No. 940016, Final EIS, AFS, ID, Lucky Peak Nursery Pest Management Program, Implementation, Intermountain Region, Boise National Forest, Ada County, ID, Due: March 07, 1994, Contact: Sally Campbell (503) 326–7755.

EIS No. 940017, Draft EIS, BIA, SD, Crow Creek Dam Project, Crow Creek Dam and Reservoir (Lake Bedashosha) Improvements, Crow Creek Indian Reservation, near Fort Thompson, Buffalo County, SD, Due: April 01, 1994, Contact: Roy Pulfrey (605) 226–7621.

EIS No. 940018, Draft EIS, DOE, VA, Lower Virginia Peninsula Regional Raw Water Supply Plan, Permit Approval, Cohoke Mill Creek, King William County, VA, Due: March 21, 1994, Contact: Pamela K. Painter (804) 441–7654.

EIS No. 940019, Final EIS, AFS, MI, J. W. Toumey Nursery Pest Control Management Plan, Ottawa National Forest, Community of Watersmeet, Gogebic County, MI , Due: March 07, 1994, Contact: Sally Campbell (503) 326–7755.

EIS No. 940020, Final EIS, BPA, WA, ID, CA, UT, AZ, OR, MT, NV, NM, WY, Alternating Current (AC) Intertie Transmission Facilities, Capacity Ownership and Federal Marketing and Joint Ventures, Implementation, WA, OR, ID, MT, CA, NV, UT, NM, AZ, WY and British Columbia , Due: March 07, 1994, Contact: Carol M. Bergstrom (800) 472–2756.

EIS No. 940021, Draft EIS, BPA, OR, Coyote Springs Cogeneration Project, General Transmission Agreement Revision for Construction and Operations of the Coyote Springs Interconnection, Implementation, Morrow County, OR, Due: March 21, 1994, Contact: Carol M. Bergstrom (800) 472–2756.

EIS No. 940022, Draft EIS, NOA, PR, VI, U.S. Virgin Islands and Puerto Rico Corals and Reef Associated Plants and Invertebrates Fishery Management Plan, Implementation, NPDES Permit, PR and VI , Due: March 21, 1994, Contact: Rolland A. Schmitten (301) 713–2239.

EIS No. 940023, Draft EIS, NOA, American Lobster Fishery Management Plan Amendment 5, Elimination or Prevention of Overfishing in the Exclusive Economic Zone (EEZ), Approval and Permits, U.S. Atlantic Coast, Due: March 21, 1994, Contact: Rolland Schmitten (301) 713–2239.

Dated: February 1, 1994.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 94–2607 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4834–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 7, 1994.

For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Polychlorinated Biphenils (PCBs): Use in Electric Equipment and Transformers. (EPA ICR No. 1000.05; OMB #2070–0003). This is an extension of the expiration date of a currently approved collection.

Abstract: In compliance with section 6(e) of the Toxic Substances Control Act (TSCA), owners of PCB transformers must keep records on unit use, inspection and corrective actions for leaks. These records must be maintained for at least three years after disposing of the transformer. Owners of PCB transformers must also report any fire-related incidents immediately to the National Response Center. EPA conducts periodic inspections of facilities operating PCB transformers. The inspections are used to generate reports, and to ensure compliance with TSCA.

Burden statement: The public burden for this collection of information is estimated to average one hour per response for reporting and ten minutes per recordkeeper annually. This estimate includes the time needed to review instructions, search for data sources, gather the data needed, and review the collection of information.

Respondents: Owners of PCB transformers.

Estimated No. of respondents: 6 respondents for reporting and 200,000 recordkeepers.

Estimated No. of responses per respondent: 1.

Estimated total annual burden on respondents: 33,206 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: January 27, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–2592 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4833–3]

Science Advisory Board; Closed Meeting

Under Public Law 92–463, notice is hereby given that a meeting of an ad-hoc Subcommittee of the Science Advisory Board will be held in Washington, DC on March 2–3, 1994 to determine the recipients of the Agency's 1993 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgments on those employees whose published research results are deserving of a cash award as well as those that are not. Discussion of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempted under section 10(d) of title 5, U.S. Code, appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review. Inquiries may be made to the Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Pursuant to section 10(d) of the U.S.C. appendix 1 and 5 U.S.C. 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed. The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. appendix 1, section 10(d).

Dated: January 27, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94–2593 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4834–4]

Science Advisory Board; Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Science Advisory Board's (SAB) Clean Air Scientific Advisory Committee (CASAC) will meet on March 24, 1994 at the Omni Europa Hotel, 1 Europa Drive, Chapel Hill, NC 27514, (919) 968-4900. The meeting will begin at 8:30 a.m. and adjourn no later than 5 p.m. The meeting is open to the public, however, seating will be on a first-come basis. The Committee will review the Ozone Human Exposure Analysis methodology that is part of the ongoing review of the ozone national ambient air quality standards (NAAQS). Copies of the documents describing the health risk assessment methodology and additional exposure analysis work will be available and provided to the Committee in mid-February, and may be obtained by contacting Harvey Richmond of the EPA staff at (919) 541-5271. Copies of these documents are not available from the Science Advisory Board.

For further information concerning the meeting, including a draft agenda, please contact Mr. Randall C. Bond, Designated Federal Official, or Ms. Janice Cuevas, Program Analyst, Science Advisory Board (Mail Code 1400), U.S. Environmental Protection Agency,

Washington, DC 20460. Phone: 202-260-8414; Fax: 202-260-1889. Individuals or groups wishing to make a brief oral presentation to the Committee must contact Mr. Bond no later than 12 noon Eastern Time on Wednesday, March 16, 1994 in order to reserve time on the agenda. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Written comments (provide at least 35 copies) received in the SAB Staff Office sufficiently prior to the meeting date, may be mailed to the Committee prior to its meeting; comments received too close to the meeting date will normally be provided to the Committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: January 25, 1994.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 94–2594 Filed 2–3–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

January 28, 1994.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857–3800. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on these information collections should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0207

Title: Sections 73.961 and 73.932, Test of the Emergency Broadcast System (EBS) and Radio Monitoring and Attention Signal Transmission Requirements

Action: Extension of currently approved collection

Respondents: Businesses or other for-profit (including small businesses)

Frequency of Response: Recordkeeping requirement

Estimated Annual Burden: 12,500 recordkeepers; 1.25 hours average burden per recordkeeper; 15,625 hours total annual burden

Needs and Uses: Section 73.961 requires that all broadcast stations log transmission and receipt of the weekly EBS test and receipt of the semi-monthly wire service test. The recordkeeping of this information is necessary to document station compliance with this rule and to help enhance station awareness and participation in the National, State and Local Emergency Broadcast System. Section 73.932 further explains rule 73.961 and requires broadcast stations to log why they did not receive a weekly EBS test. The information is used by FCC staff as part of their routine inspections of broadcast stations. Accurate recordkeeping of this data is vital in determining the location and nature of possible equipment failure on the part of the transmitting or receiving station (or wire service). Furthermore, since the National level EBS is solely for the use of the President, its proper operation must be assured.

OMB Number: 3060–0465

Title: Section 74.985, Signal booster stations

Action: Extension of a currently approved collection

Respondents: Non-profit institutions and businesses or other for-profit (including small businesses)

Frequency of Response: On occasion reporting requirement

Estimated Annual Burden: 27 responses; .78 hour average burden per response; 21 hours total annual burden

Needs and Uses: On 2/21/91, the OMB approved an information collection for 47 CFR 74.985(a) under OMB Control Number 3060–0465. On 1/21/92, OMB approved an information collection for Amendment of parts 21, 43, 74, 78 and 94 of the Commission's rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting Private Operational-Fixed Microwave under OMB Control Number 3060–0464. This information collection includes § 74.985 (b), (c) and (g) amongst other rules. On 2/13/93, the Commission adopted a Report and Order in PR Docket No. 92–80, which further modified § 74.985(g). On 10/30/93, OMB approved this modification through a correction worksheet (3060–0464).

In this submission, we are bringing all portions of § 74.985 under one OMB control number. All other portions of the approval for OMB Control Number 3060–0464 will remain under that collection. Section 74.985(a) requires signal booster stations to obtain the written consent from the licensee of the MDS, MMDS, or ITFS station whose signals are to be retransmitted. Section 74.985 (b), (c), and (d) are reporting requirements that are contained in the FCC Form 330 and will not be included as a separate burden within this rule section. Section 74.985(e) requires each application for a signal booster station to include a written consent statement of the licensee of each MDS, MMDS, and ITFS station whose signal is retransmitted. Section 74.985(g) requires that a MDS or ITFS licensee submit a certification statement to install a low power signal booster within 48 hours of installation of the booster station. Such applications must demonstrate compliance with 74.985(g). This written consent would be attached to an application for signal booster station and would be used by FCC staff to ensure that a booster station has consent to retransmit the MDS, MMDS, and ITFS station signal. The requirements in § 74.985(g) would be used by FCC staff to ensure that a low power signal booster would not cause interference and that it has proper authority to retransmit an MDS or ITFS signal.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–2538 Filed 2–3–94; 8:45 am]

BILLING CODE 6712–01–M

[DA 94–74]

Comments Invited on Florida Public Safety Plan Amendment

January 26, 1994.

On May 10, 1990, the Commission accepted the Public Safety Plan for Florida (Region 9). On October 25, 1993, Region 9 submitted a proposed amendment to its plan that would, in part, add an additional subregion, clarify timeframes for applications for pooled and dedicated channel allotments, add explicit channel loading requirements, and clarify and enlarge upon mutual aid requirements. Because the proposed amendment is a major change to the Region 9 plan, the Commission is soliciting comments from the public before taking action. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 57.)

Interested parties may file comments to the proposed amendment on or before March 4, 1994 and reply comments on or before March 21, 1994. Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to Gen. Docket 90–119 Florida-Public Safety Region 9.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–2479 Filed 2–3–94; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1995]

Petition for Reconsideration of Action in Rulemaking Proceeding

January 28, 1994.

Petition for reconsideration has been filed in the Commission rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in room 239, 1919 M Street NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Cleveland and Ebenezer, Mississippi) (MM Docket No. 93–100, RM No. 8175)

Petition for Reconsideration

Number of Petitions Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–2478 Filed 2–3–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Consolidated Reports of Condition and Income (Call Reports): Change in comment period for information collection submitted to OMB under the Paperwork Reduction Act.

Title of Collection: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks).

On Tuesday, January 18, 1994, the FDIC published notice that the above captioned information collection had been submitted to the Office of Management and Budget for review and approval. Public comment was invited, with a comment period ending March 21, 1994. That date is hereby revised to February 21, 1994.

Dated: January 31, 1994.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 94–2508 Filed 2–3–94; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1008–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1008–DR), dated January 17, 1994, and related determinations.

EFFECTIVE DATE: January 25, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 25, 1994, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of California, resulting from an earthquake and aftershocks on January 17, 1994, and continuing, is of sufficient severity and magnitude that special cost-sharing conditions are warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act") for the Public Assistance program.

Therefore, I amend my previous declaration to authorize Federal funds for Public Assistance at 90 percent of total eligible costs, except for direct Federal assistance costs for emergency work, which are authorized at 100 percent Federal funding until January 25, 1994. This 90 percent reimbursement applies to all authorized Public Assistance costs.

This adjustment to State and local cost sharing applies only to Public Assistance costs eligible for such adjustment under the law. The law specifically prohibits a similar adjustment for funds provided to States for the Individual and Family Grant program. These funds will continue to be reimbursed at 75 percent of total eligible costs.

Please notify the Governor of the State of California and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 94–2582 Filed 2–3–94; 8:45 am]

BILLING CODE 6718–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0317]

Albuquerque Substance Abuse Clinic; Denial of Hearing and Revocation of Approval of a Narcotic Addiction Treatment Program; Final Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking approval of an "Application for Approval of Use of Methadone in a Treatment Program" (Form FDA–2632) held by Albuquerque Substance Abuse Clinic, Inc. (ASAC). The sponsor has failed to demonstrate the ability to correct and prevent violations of FDA's methadone regulation. Also, FDA is denying ASAC's request for hearing because they failed to submit information showing that there is a genuine issue of fact to justify a hearing.

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Gerald R. Hajarian, Center for Drug Evaluation and Research (HFD–342), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1029.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 23, 1993 (58 FR 49519), FDA published a notice of opportunity for a hearing (NOOH) proposing to revoke approval of ASAC's

Form FDA–2632 because of recurring, egregious violations of FDA's methadone regulation in § 291.505 (21 CFR 291.505). The September 23, 1993, NOOH: (1) Set forth in detail the specific violations found in three FDA inspections conducted between April 2, 1991, and September 11, 1992; (2) described FDA's two unsuccessful efforts to arrange an informal conference to allow ASAC the opportunity to explain why the program's approval should not be revoked; and (3) offered ASAC the opportunity for a hearing on the proposal to revoke approval.

By letter dated October 19, 1993, ASAC submitted a written notice of appearance and request for a hearing, but they failed to submit the information and analyses to demonstrate that there is a genuine issue of fact to justify a hearing.

FDA's Associate Commissioner for Regulatory Affairs has reviewed ASAC's notice of appearance and request for a hearing, as well as the data on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, submitted by the Center for Drug Evaluation and Research in support of the NOOH, and concludes that ASAC has failed to raise a genuine and substantial issue of fact requiring a hearing under § 314.200 (21 CFR 314.200), and that summary judgment should be entered against ASAC. The reasons for this decision are set forth in section II of this document.

I. Legislative and Regulatory Background

Under the Controlled Substances Act (Pub. L. 91–513) (21 U.S.C. 801 *et seq.*), methadone is classified as a schedule II controlled substance (21 U.S.C. 812(c)). A schedule II classification means that methadone is regarded to have a currently accepted medical use, but it has a high potential for abuse that may lead to severe psychological or physical dependence (21 U.S.C. 812(b)).

Methadone is a synthetic narcotic analgesic and has been approved by FDA for: (1) Relief of severe pain, (2) detoxification treatment of narcotic addiction, and (3) temporary maintenance treatment of narcotic addiction. As discussed in this section, the use of methadone for maintenance treatment of narcotic addiction is permitted to be used only by approved methadone programs, i.e., programs found to be in accord with the conditions for distribution and use of methadone set forth in § 291.505. The reason for this restriction is methadone's potential for abuse and diversion from legitimate commerce into the illegal marketplace.

The current action revoking approval of a methadone program's Form FDA–2632 is the first such action FDA has taken in more than 20 years of regulating methadone programs. The following discussion is intended to provide the legislative and regulatory history underlying this action, so that the serious nature of ASAC's violations, and FDA's response to them, are clearly understood.

The current system by which FDA regulates and monitors the use of methadone in the treatment of addiction began in 1970 with passage of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (the CDAPCA) (Pub. L. 91–513) (21 U.S.C. 801 *et seq.*). Prior to the CDAPCA, FDA's control over methadone was based exclusively on FDA's regulation of new drugs, including the investigational use of new drugs, under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355).

The CDAPCA directs the Secretary of Health and Human Services to determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts (42 U.S.C. 257a). The Secretary's authority to determine the safety and effectiveness of drugs or to approve new drugs to be used in the treatment of narcotic addicts is delegated to the Commissioner of Food and Drugs (§ 5.10(a)(8) (21 CFR 5.10(a)(8))). Practitioners who wish to prescribe or dispense controlled drugs, including methadone, are required under the CDAPCA to register annually with the Drug Enforcement Administration (DEA).

In the **Federal Register** of April 2, 1971 (36 FR 6075), FDA published guidelines for investigating the use of methadone in maintenance treatment. The purpose of these guidelines was to assure the availability of valid data on the use of methadone in maintenance treatment and to protect the community from the hazards of diversion and abuse of methadone.

It was FDA's position that restricting the use of methadone in maintenance treatment only under investigational new drug application (IND) protocols was not warranted and that methadone should be available to all addicts who consent to use it in approved treatment programs. On the other hand, FDA was aware that, despite the distribution restriction of the IND protocols then in effect, the use of methadone outside IND protocols was substantial. FDA was concerned that the usual form of new drug application (NDA) approval would lead to even greater diversion or misuse of the drug, because it would permit relatively unrestricted distribution and allow all physicians wide discretion in prescribing the drug. Therefore, FDA exercised its authority under both the IND and NDA control mechanisms, as well as the authority granted under the CDAPCA, to ensure that the required information for assessing the safety and efficacy of methadone would be obtained, and close control would be maintained over the distribution, administration, and dispensing of the drug.

In 1972, FDA issued its methadone regulations under the new drug provisions of section 505 of the act and the CDAPCA. These regulations set forth medical standards in the treatment of narcotic addiction in accord with the CDAPCA and provided for a closed system of methadone distribution.

In the early 1970's, diversion of methadone from legitimate commerce into the illegal marketplace became a serious problem. The authority of DEA to impose and enforce standards relating to the security and diversion of narcotic drugs used in the treatment of narcotic addiction was strengthened in 1974 when Congress enacted the Narcotic Addict Treatment Act of 1974 (the NATA) (Pub. L. 93–281) (21 U.S.C. note). The NATA ensured that only bona fide narcotic addicts were admitted to maintenance or detoxification treatment, that they received quality care, and that illicit diversion was limited.

Under the NATA, those practitioners who dispense narcotic drugs in the treatment of narcotic-dependent persons must obtain an annual registration with DEA. This registration is distinct from the general registration requirement, previously mentioned, under the CDAPCA to prescribe or dispense controlled drugs. To be registered, these practitioners must comply with the requirements established by DEA for secure drug storage, recordkeeping, and unsupervised use; and these practitioners must be found qualified under the treatment standards established by FDA's methadone regulation to engage in such treatment (21 U.S.C. 823(g)).

In the **Federal Register** of September 19, 1980 (45 FR 62694), FDA and the National Institute of Drug Abuse jointly issued a final rule amending FDA's methadone regulation to make it consistent with the requirements of the NATA and the implementing regulations issued by DEA. Changes included requirements for physiologic dependence of patients, physician staffing, and urine testing in methadone

maintenance programs, more flexibility in clinical standards, clarification of patient care responsibilities by indicating the minimum standards for the appropriate methods of professional practice in the medical treatment of narcotic addicts, and recommendations regarding sound medical practice in the safe and effective treatment of narcotic addicts with methadone.

II. ASAC's Hearing Request and FDA's Finding

ASAC, 117 Quincy St. NE., Albuquerque, NM 87124, is a substance abuse treatment clinic; one of its primary functions is the dispensing of methadone hydrochloride in the treatment of narcotic addiction (heroin or other morphine-like drugs).

The NOOH proposing to revoke approval of ASAC's Form FDA–2632 set forth in detail a long list of serious violations of FDA's methadone regulation. These violations have continued to recur over an extended period of time. ASAC has shown an inability to function in accord with the methadone regulation.

The fact that ASAC was unable to bring itself in compliance with the methadone regulation after multiple inspections is clear evidence that the management of ASAC is not suited to run a narcotic treatment center using methadone. Moreover, since publication of the NOOH, FDA has become aware that ASAC no longer has a medical director. A narcotic treatment center using methadone treatment cannot legally function without a medical director. (See, inter alia, § 291.505(c) and (d)(4)(ii).)

ASAC's entire hearing request consists of the following statement, dated October 19, 1993:

This letter is being sent to request a hearing for [ASAC] that we may show why our approval for a narcotic treatment program should not be revoked.

We are gathering together all information and data showing just cause for us to remain open. We are in hopes this data will demonstrate our ability to correct and prevent violations.

The information will follow within the next thirty days.

We are sincerely hoping you will accept and allow our request for the hearing.

ASAC did not submit any additional information, and the request itself is nothing more than a notice of appearance. As stated in the NOOH, a hearing request must set forth specific facts showing that there is a genuine issue of fact that requires a hearing. ASAC has failed even to attempt to submit such information.

Therefore, for the reasons stated in the September 23, 1993, NOOH, and the reasons discussed in this final order, the Associate Commissioner for Regulatory Affairs hereby enters summary judgment against ASAC and revokes approval of ASAC's "Application for Approval of Use of Methadone in a Treatment Program" (Form FDA–2632), effective February 4, 1994. DEA and the New Mexico State authority are notified, concurrently with the issuance of this notice, that the Associate Commissioner has determined that ASAC is not qualified to engage in the treatment with respect to which registration under section 303 of the Controlled Substances Act (21 U.S.C. 823) was previously granted. This notice is issued under authority delegated to the Commissioner of Food and Drugs (§ 5.10 (a)(9)) and redelegated to the Associate Commissioner for Regulatory Affairs (21 CFR 5.20).

Dated: January 24, 1994.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 94–2470 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Tentative Schedule of Meetings for 1994

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a tentative schedule of forthcoming meetings of its public advisory committees for 1994. At the request of the Commissioner of Food and Drugs (the Commissioner), the Institute of Medicine (the IOM) conducted a study of the use of FDA's advisory committees. The IOM recommended that the agency publish an annual tentative schedule of its meetings in the **Federal Register**. In response to that recommendation, FDA is publishing its first annual tentative schedule of meetings.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: The IOM, at the request of the Commissioner, undertook a study of the use of FDA's advisory committees. In its final report, the IOM recommended that FDA adopt a policy of publishing an advance yearly schedule of its upcoming public advisory committee meetings in the **Federal Register**. FDA is implementing this recommendation with the publication of this notice in the **Federal Register**. The annual publication of tentatively scheduled advisory committee meetings will provide both advisory committee members and the public with the opportunity to schedule, in advance, attendance at FDA's upcoming advisory committee meetings. The schedule is tentative and amendments to this notice will not be published in the **Federal Register**. FDA will, however, publish a **Federal Register** notice 15 days in advance of each upcoming advisory committee meeting, announcing the meeting (21 CFR 14.20).

The following list announces FDA's tentatively scheduled advisory committee meetings for 1994:

Committee name	Dates of meetings
OFFICE OF THE COMMISSIONER	
Board of Tea Experts	February 24–25
Science Board to the Food and Drug Administration	February 23–24
	June 28
	October 20–21
CENTER FOR BIOLOGICS EVALUATION AND RESEARCH	
Allergenic Products Advisory Committee	June 6–7
	November 21–22
Biological Response Modifiers Advisory Committee	May 25–26
	September 1–2
	December 8–9
Blood Products Advisory Committee	March 24–25

Committee name	Dates of meetings
	May 19–20
	September 29–30
	December 15–16
Vaccines and Related Biological Products Advisory Committee	January 27–28
	August 23–24
	November 17–18
CENTER FOR DRUG EVALUATION AND RESEARCH	
Anesthetic and Life Support Drugs Advisory Committee	January 24 (subcommittee meeting)
	March 1–2 (subcommittee meeting)
	May 19–20
Anti-Infective Drugs Advisory Committee	March 24–25
	October 20–21
Antiviral Drugs Advisory Committee	May 19 (joint meeting with Nonprescription Drugs Advisory Committee)
	May 20
Arthritis Advisory Committee	January 27–28
	June 13–14
Cardiovascular and Renal Drugs Advisory Committee	March 24–25
	June 9–10
Dermatologic Drugs Advisory Committee	February 16 (joint meeting with Nonprescription Drugs Advisory Committee)
	November 3–4
Drug Abuse Advisory Committee	April 19–20
	August 30–31
	December 5–6
Endocrinologic and Metabolic Drugs Advisory Committee	March 17–18
Fertility and Maternal Health Drugs Advisory Committee	June 23–24
Gastrointestinal Drugs Advisory Committee	February 17
Generic Drugs Advisory Committee	January 11–12
Medical Imaging Drugs Advisory Committee	April 22
	November 18
Nonprescription Drugs Advisory Committee	February 16 (joint meeting with Dermatologic Drugs Advisory Committee)
	May 18
	May 19 (joint meeting with Antiviral Drugs Advisory Committee)
	July 28–29
	September 22–23
Oncologic Drugs Advisory Committee	March 29
	June 7
Peripheral and Central Nervous System Drugs Advisory Committee	March 14–15
	June 6–7
	September 26–27
Psychopharmacologic Drugs Advisory Committee	April 25–26
	July 18–19
Pulmonary-Allergy Drugs Advisory Committee	May 23–24
	October 20–21
CENTER FOR FOOD SAFETY AND APPLIED NUTRITION	
Food Advisory Committee	April 5–6
	June 20–21
	October 10–11
CENTER FOR DEVICES AND RADIOLOGICAL HEALTH	
Device Good Manufacturing Practice Advisory Committee	No meetings planned
Medical Devices Advisory Committee:	
Anesthesiology and Respiratory Therapy Devices Panel	May 17
Circulatory System Devices Panel	March 7–8
	June 6–7
	October 3–4
	December 5
Clinical Chemistry and Clinical Toxicology Devices Panel	April 25–26
	September 12–13
Dental Products Panel	March 28–30
	June 14–16
	September 22–23
	December 6–8
Ear, Nose, and Throat Devices Panel	June 23–24
Gastroenterology-Urology Devices Panel	March 24–25
	July 14–15
	October 13–14
General and Plastic Surgery Devices Panel	March 17–18
	September 29–30
General Hospital and Personal Use Devices Panel	April 21–22
	September 14–15
Hematology and Pathology Devices Panel	June 6

Committee name	Dates of meetings
	November 7
Immunology Devices Panel	May 19–20
	September 23
Microbiology Devices Panel	June 9
Neurological Devices Panel	July 8–9
	September 16–17
Obstetrics-Gynecology Devices Panel	April 14–15
	June 16–17
	September 22–23
Ophthalmic Devices Panel	February 24–25
	May 19–20
	October 20–21
Orthopedic and Rehabilitation Devices Panel	May 20
	October 21
Radiologic Devices Panel	May 2
	August 29
	December 12
National Mammography Quality Assurance Advisory Committee	February 17–18
	May 11–13
	August 3–5
	November 3–5
Technical Electronic Product Radiation Safety Standards Committee	July 19
CENTER FOR VETERINARY MEDICINE	
Veterinary Medicine Advisory Committee	April 20–21
	October 26–27
NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH	
Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee).	June 1–2
Science Board to the National Center for Toxicological Research	June 14–15

Dated: January 31, 1994.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 94–2468 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Science Board to the Food and Drug Administration

Date, time, and place. February 23, 1994, 10 a.m., and February 24, 1994, 8:30 a.m., Embassy Room III, Bethesda Ramada Inn, 8400 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open board discussion, February 23, 1994, 10 a.m. to 5 p.m.; open public hearing, 5 p.m. to 6 p.m., unless public participation does not last that long; open board discussion, February 24, 1994, 8:30 a.m. to 10:30 a.m.; closed board deliberations, 10:30 a.m. to 11:45 a.m.; open board discussion, 11:45 a.m. to 4 p.m.; Sheryl A. Rosenthal, Office of the Senior Advisor for Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5839.

General function of the board. The board provides advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board provides advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science; on formulating an appropriate research agenda; and on upgrading its scientific and research facilities to keep pace with these changes. It also provides a means for critical review of agency-sponsored intramural and extramural scientific research programs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the board. Those desiring to make formal presentations must notify the contact person before February 14, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. Each presenter will be limited in time and not all requests to speak may be able to be accommodated. All written statements submitted by February 14, 1994, will be provided to the board.

Open board discussion. The board will discuss both academic and industrial external interactions. These discussions are designed to enhance the scientific effectiveness of the agency.

Closed board deliberations. The board may discuss matters that would disclose trade secrets or commercial or financial information obtained from a person that is privileged or confidential. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: January 31, 1994.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 94–2469 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the months of February and March 1994:

Name: National Advisory Council on Migrant Health.

Date and Time: February 25–26, 1994—9 a.m.

Place: Holiday Inn—Governors House, Rhode Island Avenue & 17th Street, NW., Washington, DC 20036.

The meeting is open to the public.

Purpose: The Council is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Resources and Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 of the Public Health Service Act.

Agenda: The agenda includes a overview of Council general business activities and priorities; discussion of 1994 National Advisory Council on Migrant Health Recommendations with Federal representatives and subcommittee meetings.

Anyone requiring information regarding the subject Council should contact Helen Kavanagh, Migrant Health Program, Staff Support to the National Advisory Council on Migrant Health, Bureau of Primary Care, Health Resources and Services Administration, 4350 East West Highway, Room 7A6–1, Rockville, Maryland 20857, Telephone (301) 594–430.

* * * * *

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: March 2, 1994; 9 a.m.–5 p.m., March 3, 1994; 8:30 a.m.–5 p.m.

Place: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Purpose: The Commission: (1) Advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3)

advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: The full Commission will meet commencing at 9 a.m. on Wednesday, March 2 until 2:45 p.m., and from 8:30 a.m. to 5 p.m. on Thursday, March 3. Agenda items will include, but not be limited to, a presentation on the Food and Drug Administration's procedures for reviewing data and applications for the approval and licensure of new vaccines; a report of the Institute of Medicine (IOM) recent British Medical Journal article and its implications for the IOM's Section 312 Report; discussion of recent meetings and activities to revise the Vaccine Information Materials; routine Program reports; reports from the National Vaccine Program, and reports from the ACCV Subcommittees. In addition, on March 2, following the meeting of the full Commission, there will be simultaneous meetings of two of the Commission's Working Subcommittees:

* * * * *

Name: Financial Review Subcommittee of the Advisory Commission on Childhood Vaccines.

Time: March 2, 1994, 3 p.m.–5 p.m.

Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: This Subcommittee reviews quarterly, with the administrative staff, the financing of the Vaccine Injury Compensation Trust Fund, the output of funds resulting from each vaccine and each adverse event, and the relationship of each vaccine and each adverse event to the rate of depletion of the Trust Fund.

If these studies justify any increase or any decrease of surtax for each vaccine, these recommendations can be made to the full Commission and, if accepted, can be forwarded to the Secretary.

Agenda: The Subcommittee will discuss and review the status of funding and spending on pre-1988 awards and the status of the Trust Fund.

* * * * *

Name: Scientific Review Subcommittee of the Advisory Commission on Childhood Vaccines.

Time: March 2, 1994, 3 p.m.–5 p.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: This Subcommittee will review statistics from all sources (the Compensation System, Vaccine Adverse Events Reporting System (VAERS), the U.S. Court of Federal Claims, etc.) that can give any reason for any alterations (additions, subtractions, or revisions) in the Vaccine Injury Table. The Subcommittee will consider any applications for inclusion of additional vaccines and associated events to the table and make recommendations on these to the Commission. All recommendations by the Subcommittee will be considered by the full Commission and, if accepted, will be forwarded to the Secretary. This Subcommittee will also be the first line of study for all outside studies and literature reports with subjects affecting the Vaccine Injury Table.

Agenda: The Subcommittee will meet and discuss future agenda items for the remainder of calendar year 1994.

Public comment will be permitted at the respective Subcommittee meetings on March 2 before they adjourn in the evening; before noon and at the end of the full Commission meeting on March 2; and before noon and before they adjourn at noon on the second day on March 3. Oral presentations will be limited to 5 minutes per public speaker.

Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to Ms. Rosemary Havill, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, room 8A–35, 5600 Fishers Lane, Rockville, MD 20852; Telephone (301) 443–1533.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Rooms G & H before 10 a.m. on March 2 and 3. These persons will be allocated time as time permits.

Anyone requiring information regarding the Commission should contact Ms. Rosemary Havill, Division of Vaccine Injury Compensation, Bureau of Health Professions, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20852; Telephone (301) 443–1533.

Agenda Items are subject to change as priorities dictate.

Dated: January 31, 1994.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 94–2480 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, January 14, 1994.

(Call PHS Reports Clearance Officer on 202–690–7100 for copies of request).

1. Behavorial, Biochemical, Endocrine and Genetic Study of Alcohol Abusing Violent Offenders—0925–0390 (Reinstatement)—NIAAA requires information on genetic and biochemical determinants of alcohol abuse and alcoholism. This information will be collected by psychiatric interview data, behavioral observation and laboratory testing of specimens obtained from violent offenders, their blood relatives and matched controls. The data collected will be used to further our understanding of the transmission and results of alcohol abuse. Respondents: Individuals or households; Number of Respondents: 200; Number of Responses per Respondent: 1; Average Burden per Response: 8 hours; Estimated Annual Burden: 1600 hours.

2. Survey of Kidney Transplant Centers Regarding Living-Related Donations—New—Transplant centers vary in their use of kidneys donated by potential recipients' living relatives. This survey of all kidney transplant centers will identify institutional factors influencing living-related donation rates. It will enable the Health Resources and Services Administration to describe team and center characteristics that support appropriate use of this cost-effective alternative to long-term dialysis. Respondents: Businesses or other for-profit; Non-profit institutions, Small businesses or organizations; Number of Respondents: 900; Number of Responses per Respondent: 1; Average Burden per Response: .29 hour; Estimated Annual Burden: 260 hours.

3. Grants for Hospital Construction and Modernization—Federal Right of

Recovery and Waiver of Recovery (42 CFR 124, Subpart H)—0915–0099 (Extension)—"Federal Right of Recovery and Waiver of Recovery" provides a means for the Federal Government to recover grant funds and a method of calculating interest when a grant-assisted facility is sold or leased, or there is a change in use of the facility. It also allows for a waiver of the right of recovery under certain circumstances. Respondents: State or local governments, Businesses or other-for-profit; non-profit institutions; Number of Respondents: 20; Number of Responses per Respondent: 1; Average Burden per Response: 3 hours; Estimated Annual Burden: 60 hours.

4. NIH Intramural Research Training Award (Program Application)—0925–0299 (Extension, no charge)—The information collection will be used to make fellowship awards to qualified applicant individuals. Awardees will receive training in biomedical research at the National Institutes of Health. Respondents: Individuals or households; Number of Respondents: 10,600; Number of Responses per Respondent: 1; Average Burden per Response: .55 hour; Estimated Annual Burden: 5,800 hours.

5. Loan Information System Records for the DHHS and DHUD Hospital Mortgage Insurance, Guarantee, and Direct Loan Programs—New—Operating statistics and financial information will be collected from hospitals with mortgages that are insured by the Department of Health and Human Services or the Department of Housing and Urban Development. The information will be used to monitor the financial stability of the hospitals to protect the Federal investment in these facilities. Respondents: State or local governments, Businesses or other for-profit, Non-profit institutions; Number of Respondents: 316; Number of Responses Per Respondent: 1; Average Burden Per Response: 1 hour; Estimated Annual Burden: 316 hours.

6. Establishment and Product Applications for Licenses for the Manufacture of Biological, Allergenic and Plasma Derivative Products, Blood and Blood Products—0910–0124—(Revision) Sec. 351, PHS Act & 21 CFR 601.2 requires all manufacturers of biological products to submit applications for review and approval to the Food and Drug Administration prior to marketing a product. A separate license is issued to the manufacturer for each approved product application. The date is used to determine if the manufacturer is in compliance with license provisions of the regulations. Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Title	Number of respondents	Number of responses per respondent	Average burden per response (hours)
Reporting—FDA 2599, FDA 2599a	44	3.09	2.18
Reporting—FDA 2600, 2600b	68	3.71	2
Reporting—Form FDA 3066	12	5.25	6
Reporting—Form FDA 3086	0	0	3
Reporting—Form FDA 3096	1	1	2.5
Reporting—Forms FDA 3098, 3098a, 3098b, 3098c, 3098d, 3098e	100	8.64	.66
Reporting—Forms FDA 3210	49	2.10	30
Reporting—Forms FDA 3213, 3214	27	3.56	12
Reporting—Form FDA 3314	6	1.83	12.80
Recordkeeping—21 CFR 600.12	386	172	.....

Estimate Total Annual Burden—72,229 hours.

7. Health Education Assistance loan (HEAL) Program—Request for Collection Assistance—0915–0100 (Revision)—This form provides the Department with data on delinquent borrowers. The Department uses the information to assist the lenders in the collection of overdue accounts, helping to ensure sound management of the HEAL Program. Respondents: Businesses or other for-profit, Non-profit institutions; Number of Respondents: 50; Number of Responses per Respondent: 340; Average Burden per Response: .167 hour; Estimated Annual Burden: 2,833 hours.

8. Continuing Medical Education (CME) Activity Registration Forms—New—The registration forms will be used to document physician attendance at Continuing Medical Education activities required for relicensing by state professional licensing boards. Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Number of Respondents: 5,000; Number of Responses per Respondent: 1; Average Burden per Response: .0764 hour; 382 Estimated Annual Burden.

9. Patient and Physician Surveys Related to the Secondary and Tertiary Prevention of Stroke: Patient Outcome Research Team (PORT)—0935–0086 (Extension, no change)—Data are needed to study stroke prevention activities and the related medical effectiveness and outcomes of such activities. Physician practice patterns will be assessed through a national probability sample mail survey of physicians, and patients preferences will be assessed through a telephone survey of stroke patients and persons at risk of stroke. Respondents: Individuals or households' Number of Respondents: 3,052; Number of Responses per Respondent: 1 hour; Average Burden per Response: 0.388 hour; Estimated Annual Burden: 1,183 hours.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated below at the following address:

Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: January 31, 1994.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 94–2542 Filed 2–3–94; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that

have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Monday, December 27, 1993.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package)

1. Work Activity Report—Employee, 0960–New. The information on form SSA–821–BK will be used by the Social Security Administration (SSA) to obtain the same information regarding work activity that is currently obtained via forms SSA–821–F4 and SSA–3945–BK. Those two forms will be obsoleted. Work information is needed by SSA in order to determine initial or continuing entitlement to disability benefits.

Number of Respondents: 300,000
Frequency of Response: On occasion
Average Burden Per Response: 45 minutes
Estimated Annual Burden: 225,000 hours

2. State Agency Schedule for Equipment Purchases for SSA Disability Programs, 0960–0406. The information on form SSA–871 is used by the Social Security Administration to reimburse State Disability Determination Services (DDS) agencies for equipment used in determinations regarding Social Security claims. The respondents are the 54 State DDSs.

Number of Respondents: 54
Frequency of Response: 1
Average Burden Per Response: 1 hour
Estimated Annual Burden: 54 hours

3. Information about Joint Checking/Savings Account, 0960–0461. The information on form SSA–2574 is used by the Social Security Administration to determine if funds in a joint bank account belong to the Supplemental Security Income (SSI) applicant or recipient. The affected public is comprised of applicants for and recipients of SSI benefits who have joint bank accounts.

Number of Respondents: 200,000
Frequency of Response: on occasion
Average Burden Per Response: 7 minutes
Estimated Annual Burden: 23,333 hours

4. Request for Supplemental Security Income (SSI) Benefit Estimate, 0960–0492. The information on form SSA–3716 is used by the Social Security Administration to provide estimates of future SSI payments of recipients who may return to work. The respondents are current SSI recipients who may receive monetary compensation for work performed.

Number of Respondents: 50,000
Frequency of Response: On occasion
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 4,167 hours

5. Vocational Rehabilitation "301" Program Development, 0960–0282. The information on form SSA–4290 is used by the Social Security Administration to determine an individual's continued entitlement to disability benefits when that individual has medically recovered while allegedly participating in a Vocational Rehabilitation (VR) program. The respondents are State VR agencies serving such beneficiaries.

Number of Respondents: 80
Frequency of Response: 100
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 2,000 hours

6. Third Party Liability Information Statement, 0960–0323. The information on form SSA–8019 is used by the Social Security Administration (SSA) to record commercial health insurance information from applicants and recipients of Supplemental Security Income (SSI) who may also be entitled to Medicaid. The respondents are such individuals who live in States which have agreed, under Section 1634 of the Social Security Act, to have SSA make determinations regarding eligibility for medical assistance under the State's plan.

Number of Respondents: 65,400
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 5,450 hours

7. Referral and Treatment Status of SSI Drug Addicts or Alcoholics, 0960–0331. The information on form SSA–8740 is used by the Social Security Administration to refer SSI recipients (who are disabled because of drug addiction or alcoholism) for treatment and to monitor such treatment. The respondents are State agencies who refer and monitor such recipients.

Number of Respondents: 38,500
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 6,417 hours

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: January 26, 1994.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 94–2406 Filed 2–3–94; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–94–1917; FR–3350–N–69]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: February 4, 1994.

ADDRESSES: For further information, contact Mark Johnston, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 28, 1994.

Kenneth C. Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 94–2617 Filed 2–3–94; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife; Notice of Intent To Prepare an Environmental Impact Statement To Allow Incidental Take of the Threatened Desert Tortoise (Gopherus agassizii) Under Section 10(a)(1)(B) of the Endangered Species Act and Notice of Public Meetings

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of public meeting and intent to prepare an Environmental Impact Statement.

SUMMARY: The U.S. Fish and Wildlife (Service) intends to prepare an draft environmental impact statement (DEIS) for incidental take of desert tortoises pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). A habitat conservation plan (HCP) will be prepared by the applicants. The applicants are Clark County and the cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City, Nevada. The Service is initiating the scoping process for preparing the DEIS. Major concerns include the direct, indirect, and cumulative effects that issuance of the proposed permit would have on the desert tortoise and other fish and wildlife resources. This notice is being provided as required by the National Environmental Policy Act of 1969, as amended (NEPA) (40 CFR 1501.7).

DATES: A public meeting on the proposed action will be held in the Commissioner's Meeting Room, 5th Floor, McCarran International Airport, Las Vegas, Nevada, at 5 p.m. on February 14, 1994. Written comments on the scoping process and issues must be received on or before March 7, 1994, to receive consideration by the Service (See **ADDRESSES** below).

ADDRESSES: Written comments should be addressed to Mr. David L. Harlow, Field Supervisor, U.S. Fish and Wildlife Service, Nevada Field Office, 4600 Kietzke Lane, Building C–125, Reno, Nevada 80502–5093. The permit application is available for public inspection, and the comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above Reno, Nevada, address or by contacting Ms. Terry Murphy, Office of the County Manager, Clark County, 225 Bridger Avenue, 6th Floor, Las Vegas, Nevada 89155 [telephone: (702) 455–3530].

FOR FURTHER INFORMATION CONTACT: Sherry Barrett at the above Reno, Nevada, address [telephone: (702) 784–5227].

SUPPLEMENTARY INFORMATION:

Background

The Service issued a section 10(a)(1)(B) permit to allow incidental take of no more than 3,710 desert tortoises from approximately 22,350 acres in the Las Vegas Valley on August 24, 1994. The permit and HCP are short-term, and will be in effect through July 31, 1994, unless the permit is reissued under a long-term HCP.

The Service proposes to prepare a DEIS to evaluate the impacts from issuing a permit under section 10(a)(1)(B) for incidental take of desert tortoises due to development of the area addressed by the long-term Clark County Desert Tortoise HCP. The term "take" is herein used as defined in the Act and its implementing regulations as: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a listed species of fish or wildlife, or attempt to engage in any such conduct. "Harm" is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering (50 CFR 17.3). "Harass" is defined as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Urban development in areas occupied by desert tortoises has created conflict situations in the Las Vegas Valley. Much of the private land which would be covered by the long-term HCP cannot be developed due to the prohibitions of section 9 of the Act. In order for many planned development projects to proceed in compliance with the Act, a permit for incidental take must be obtained. The decision by the Service to issue the incidental take permit is a Federal agency action that must be considered in an environmental document pursuant to the NEPA. The Service has determined that an EIS should be prepared because the proposed action may be a major Federal action and may have potential effects on the human environment.

Three alternatives may be considered in preparation of the EIS. The first proposed alternative is the issuance of the proposed incidental take permit to include all planned development in the area. This alternative would include a regional HCP that, when implemented, would provide for the long-term management of desert tortoises and tortoise habitat found primarily on public lands. Implementation of this alternative would require an expenditure of funds and resources to manage large blocks of desert tortoise habitat on public lands. Certain public lands would be managed under the terms of a regional HCP for protection and recovery of desert tortoises; other multipurpose land-use activities would be coordinated around this primary purpose. Within the area, urban development would be allowed to proceed on private lands within the guidelines of the issued section 10(a)(1)(B) permit, HCP, and local ordinances.

The second alternative under consideration would include the preparation of a multispecies Clark County HCP. Under this alternative, Clark County would prepare an HCP for all threatened, endangered, and candidate species in the county. This approach would cover a broader range of species than the Clark County Desert Tortoise HCP. It must be to section 10(a)(1)(B) standards.

As required by NEPA, a "no action" alternative is being considered. Under this alternative, an incidental take permit would not be issued. A long-term regional HCP would not be completed or approved by the Service and take of desert tortoises would be prohibited after July 31, 1994, when the short-term HCP expires for covered portions of the Las Vegas Valley. Development would be restricted to those activities that would not result in take of desert tortoises. A separate incidental take permit would be required for each development project that would impact desert tortoises.

Public Comments Solicited

To insure that the full range of issues related to the proposed action are identified and addressed, comments and suggestions are invited from all interested parties. The Service will consider all comments received by March 7, 1994, in preparation of the EIS.

Authority

The authorities for this action are NEPA (42 U.S.C. 4371 *et seq.*; 40 CFR part 1500–1508).

Dated: January 28, 1994.

Marvin L. Plenert,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 94–2527 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[NM-920-04-4110-03]

Availability of Record of Decision (ROD) for the Dark Canyon Final Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the ROD for the Final Dark Canyon EIS.

SUMMARY: The Bureau of Land Management (BLM), New Mexico State Office, announces the availability to the public of the ROD for the Final Dark Canyon EIS. The Final Dark Canyon EIS analyzes the impacts on the environment from reasonable foreseeable development of oil and gas resources within Dark Canyon, located in Eddy County, NM. The EIS analyzes seven alternatives, including the no action alternative and the Applicant's (Yates Energy Corporation) proposed action to drill the Diamondback Federal #1 Well on Federal Lease NM-62161.

The ROD documents the Bureau's decision to select Alternative G (the Preferred Alternative) of the Final EIS. The Decision approves the Applicant's proposed Diamondback Federal #1 Well, with the location moved 300 meters to the northeast and establishes a "Cave Protection Zone" (CPZ) within the EIS Study Area that would prohibit surface occupancy on existing leases. Drilling would be allowed within the EIS Study Area, but outside the CPZ, with enhanced precautionary operations. Future leasing would be denied within the EIS Study Area. By Memorandum of August 13, 1993, the National Park Service (NPS) concurred with the BLM in the selection of the agency's Preferred Alternative.

The Dark Canyon EIS Study Area encompasses approximately 8,320 acres and lies about 20 miles southwest of the city of Carlsbad, NM. The EIS Study Area is in the BLM's Carlsbad Resource Area and totally encompasses the Dark Canyon Special Management Area, noted for its rugged and scenic landscape as well as cave resources.

The BLM was the lead agency for preparation of the EIS, because the BLM is responsible for permitting oil and gas exploration on federal mineral estate. The NPS, Southwest Region, was a cooperating agency for preparation of the EIS because the Study Area borders Carlsbad Caverns National Park to the south, and because the alternatives described in the EIS could affect NPS cave resources, particularly Lechuguilla Cave.

ADDRESSES: Questions or concerns on this ROD can be directed to: BLM, New Mexico State Office, ATTN: Joe Incardine (NM-911), P.O. Box 27115, Santa Fe, NM 87502-0115. A limited number of copies of the ROD and the Final EIS are also available from the BLM Roswell District Office, 1717 W. Second St., P.O. Box 1397, Roswell, NM 88202-1397 and from the BLM Carlsbad Resource Area Office, 620 E. Greene, Carlsbad, NM 88220. Copies of the ROD have been mailed to those addresses on the mailing list for the Final Dark Canyon EIS.

FOR FURTHER INFORMATION CONTACT: Joe Incardine, EIS Team Leader, at (505) 438-7458 or Don Boyer, Assistant Team Leader, at (505) 438-7439 at the above New Mexico State Office address.

SUPPLEMENTARY INFORMATION: The Draft Dark Canyon EIS was filed with the Environmental Protection Agency (EPA) and released for public review on September 18, 1992. A formal public hearing was held on the Draft EIS to receive oral and written comments on the adequacy of the Draft EIS and the merits of the alternatives discussed in Carlsbad, NM, on October 22, 1992. The public comment period for the Draft EIS closed on November 20, 1992. The Notice of Availability for the Draft EIS was published in the **Federal Register** on September 18, 1992.

Following issuance of the Draft EIS to the public, over 1,000 comments were received by the BLM and were analyzed and considered in the preparation of the Final EIS. During preparation of the Final EIS, additional formal and informal meetings were held with interested publics and agencies to develop additional information and new alternatives for the proposal based on the public comment received on the Draft EIS. These meetings included an informal open house and public meeting held in Carlsbad, NM, on May 27, 1993, to inform the public of the progress on the project, including development of two additional alternatives and additional scientific data to be used in the analysis of impacts and development of mitigation measures. The Final EIS was released to the public and filed with EPA on December 17, 1993, with over 800 copies mailed out to agencies, organizations and the general public.

Following the end of the 30-day availability period for the Final EIS, the ROD was prepared and signed by the BLM New Mexico Acting State Director on January 31, 1994.

Dated: January 27, 1994.

William C. Calkins,

Acting State Director.

[FR Doc. 94-2327 Filed 2-3-94; 8:45 am]

BILLING CODE 4310-FB-M

[MT-940-04-4730-02]

Land Resource Management

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described land are scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Principal Meridian, Montana

T. 4 S., R. 43 E.

The plat representing the dependent resurvey of portions of the south boundary, subdivisional lines and the subdivision of section 34, and the survey of the medial line of the abandoned channel of the Tongue River, a certain division of accretion line and a portion of the present left bank meanders of the Tongue River in section 34, Township 4 South, Range 43 East, Principal Meridian, Montana, was accepted December 3, 1993.

T. 3 S., R. 44 E.

The plat in two sheets, representing the dependent resurvey of portions of the north boundary, the subdivisional lines, the subdivision of sections 3 and 22, and the adjusted original meanders of the former right bank of the Tongue River in section 22, and the surveys of the medial line of an abandoned channel, and a portion of the present left bank meanders of the Tongue River in sections 2 and 3, and a certain division of accretion line, and the present left bank meanders, and a portion of the right bank meanders of the Tongue River in section 22, Township 3 South, Range 44 East, Principal Meridian, Montana, was accepted December 3, 1993.

Principal Meridian, Montana

T. 5 S., R. 42 E.

The plat representing the dependent resurvey of a portion of the subdivision of section 24 and a portion of the adjusted original meanders of the left bank of the Tongue River in section 24, and the survey of certain new meanders of the present left bank of the Tongue River in section 24, Township 5 South, Range 42 East, Principal Meridian, Montana, was accepted December 3, 1993.

T. 5 S., R 43 E.

The plat representing the dependent resurvey of portions of the west boundary, the subdivision of section 19, and the adjusted original meanders of the left bank of the Tongue River in

section 19, and the survey of the medial line of an abandoned channel of the Tongue River, certain division of accretion lines, certain partition lines, and a portion of the present left bank meanders of the Tongue River in section 19, Township 5 South, Range 43 East, Principal Meridian, Montana, was accepted December 3, 1993.

The above-mentioned surveys were executed at the request of the Bureau of Indian Affairs, Billings Area Office.

T. 14 N., R. 55 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 8, the survey of the new meanders of a portion of the present right bank of a channel of the Yellowstone River, the new meanders of an island in the Yellowstone River, and the medial line of a relicted channel of the Yellowstone River, Township 14 North, Range 55 East, Principal Meridian, Montana, was accepted October 13, 1993.

This survey was executed at the request of the Division of Mineral Resources.

The triplicate original of the preceding described plats will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these surveys, as shown on the plats, is received prior to the dates of official filings, the filings will be stayed pending consideration of the protest. The protested plats of survey will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: January 26, 1994.

Wayne Zinne,

Deputy State Director, Division of Operations.

[FR Doc. 94–2485 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–DN–M

[NV–930–4210–06; N–37171]

Amendment to Withdrawal Application and Opportunity for Public Meeting, Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

The Notice of Amendment to Withdrawal Application and Opportunity for Public Meeting for N–37171 published in the **Federal Register** on September 21, 1992, pages 43468–9, is hereby corrected as follows:

1. On page 43469, in the first column, the first line, the "NW¼NW¼," should be changed to read "NW¼NE¼,".

2. On page 43469, in the first column, the following legal description should be inserted on a new line just before Sec. 33: "Sec. 28, W½;".

Marla B. Bohl,

Acting Deputy State Director, Operations.

[FR Doc. 94–2484 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–HC–M

[WY–930–4210–06; WYW 126227]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to withdraw 1,680 acres of public land and Federal Minerals in Washakie County, to protect important paleontological resource values that were recently discovered on Big Cedar Ridge near Ten Sleep, Wyoming. This notice closes the land for up to two years from surface entry and mining. The land will remain open to mineral leasing.

EFFECTIVE DATE: February 4, 1994. Comments and requests for a public meeting must be received by May 5, 1994.

ADDRESSES: Comments and requests should be sent to the Wyoming State Director, BLM, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Roger Inman, Washakie Resource Area Manager, or Julie Clarke, Washakie Resource Area Archaeologist; Bureau of Land Management, Worland District Office, 101 South 23rd Street, P.O. Box 119, Worland, Wyoming (307) 347–9871.

SUPPLEMENTARY INFORMATION: On December 23, 1993 a petition/application was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land and minerals from settlement, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian, Wyoming

T. 45 N., R. 89 W.,
Sec. 8, E½SE¼;
Sec. 9, W½SW¼;
Sec. 16, W½W½;
Sec. 17, E½E½;
Sec. 20, E½E½;
Sec. 21, W½;
Sec. 28, W½;
Sec. 29, E½E½;
Sec. 32, E½NE¼;
Sec. 33, NW¼.

The area described contains approximately 1,680 acres in Washakie County, Wyoming.

The purpose of the proposed withdrawal is to protect important paleontological resources pending further study and development of appropriate, and possibly longer-term, actions to protect and manage the resources.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Wyoming State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Wyoming State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, rights-of-way, cooperative agreements, or discretionary land use authorizations of a temporary nature which do not significantly disturb the surface of the land or impair the existing values of the area.

Dated: January 25, 1994.

James Murkin,

Acting State Director.

[FR Doc. 94–2427 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATES: February 16, 1994 at 1:30 p.m.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESSES: Allentown City Hall, 435 Hamilton Street, 5th Floor Conference Room, Allentown, PA 18101.

FOR FURTHER INFORMATION CONTACT: Millie Alvarez, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 East Church Street, Room P–208, Bethlehem, PA 18018, (215) 861–8345.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100–692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, Attention: Millie Alvarez. Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

B.J. Griffin,

Regional Director, Mid-Atlantic Region.

[FR Doc. 94–2551 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–70–M

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice announces an upcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Saturday, March 19, 1994; 8:30 a.m. until 5 p.m.

ADDRESSES: Fort Snelling Employee's Club, Fort Snelling, Building 89 (south of Whipple Federal Building), St. Paul, Minnesota 55111.

The agenda for the meeting consists of commission review and discussion of a revised draft comprehensive management plan for the Mississippi National River and Recreation Area. The discussion continues the commission's deliberation on public input received on the previously released draft comprehensive management plan and draft environmental impact statement. The commission may vote at the meeting to endorse the revised plan as ready for review by the Governor of Minnesota and Secretary of the Interior. The commission will hear public statements at this meeting.

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East Fifth Street, suite 418, St. Paul, Minnesota 55101, (612) 290–4160.

Dated: January 25, 1994.

F.A. Calabrese,

Acting Regional Director, Midwest Region.

[FR Doc. 94–2553 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–70–P

Upper Delaware Scenic and Recreational River

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of change of meeting schedule.

SUMMARY: This notice establishes the schedule for calendar year 1994 meetings of the Upper Delaware Citizens Advisory Council, as required under the Federal Advisory Committee Act.

DATES: January 20, 1994.

TYPE OF MEETING: Plenary and Informational Meetings.

ADDRESSES: National Park Service Headquarters, River Road, Beach Lake, Pennsylvania; Tusten Town Hall, Bridge Street, Narrowsburg, New York.

1994 Upper Delaware Citizens Advisory Council Meeting Schedule

Dates	Type of meeting	Inclement weather reschedule date	Location
February 8, 1994, Headquarters, Tuesday Evening.	7:00 pm Business		February 22, 1994, NPS.
March 12, 1994, Saturday	9:00 am Information; Re: Rural Community Planning.	None	Tusten Town Hall.
April 12, 1994, Tuesday Evening	7:00 pm Business		NPS Headquarters.
May 14, 1994, Saturday	9:00 am Informational; Re: Project Learning Tree.		Tusten Town Hall.
June 14, 1994, Tuesday Evening	7:00 pm Business		NPS Headquarters.
July 12, 1994, Tuesday Evening	7:00 pm Educational Forum; Re: Endangered Species.		Tusten Town Hall.
August 9, 1994, Tuesday Evening	7:00 pm Business		NPS Headquarters.
September 13, 1994, Hall, Tuesday Evening.	7:00 pm Educational Forum; Re: To be Announced.		Tusten Town.
October 11, 1994, Headquarters, Tuesday Evening.	7:00 pm Business		NPS.
November 18, 1994, Friday Evening	7:00 pm Informational; Re: The Lenape: Upper Delaware Native Americans.	December 10, 1994	Tusten Town Hall.
December 13, 1994, Headquarters, Tuesday Evening.	7:00 pm Business	January 10, 1994	NPS.

Additional subjects may be added as necessity dictates throughout the year.

Press Releases containing specific information regarding the subject of the monthly meeting will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-State Gazette
The Pike County Dispatch
The Pike County Courier
The Wayne Independent
The Hawley News Eagle
The Weekly Almanac.

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL and WVOS.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, New York 12764–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 U.S.C. s1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region.

All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, New York 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Hal J. Grovert,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 94–2550 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–70–M

Meeting: Committee for the Preservation of the White House

In compliance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the Committee for the Preservation of the White House. The meeting will be held at the Old Executive Office Building, Washington, DC at 1 p.m., Thursday, February 24, 1994. It is expected that the agenda will include a discussion of policies and goals. The meeting will be open, but subject to appointment and security clearance requirements, including clearance information by February 17, 1994.

Inquiries may be made by calling the Committee for the Preservation of the White House between 9 a.m. and 4 p.m., weekdays at (202) 619–6344. Written comments may be sent to the Executive Secretary, Committee for the Preservation of the White House, 1100 Ohio Drive, SW., Washington, DC 20242.

Dated: January 12, 1994.

James I. McDaniel,

Executive Secretary, Committee for the Preservation of the White House.

[FR Doc. 94–2552 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-No. 357X)]

Burlington Northern Railroad Company; Abandonment Exemption in King County, WA

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 Burlington Northern Railroad Company (BN) of a 3.57-mile rail line between Interbay and Terry Avenue in Seattle, WA [BN Engineering Station (ES) 267+00 to ES 143+48 and ES 118+28.7–6+60.3 to ES 34+55.2]. The Commission issues a notice of interim trail use for the line and also makes the exemption subject to standard employee protective conditions and a condition that BN consult with the State of Washington Department of Ecology and the Seattle District of the U.S. Army Corps of Engineers prior to initiating any salvage activities.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 6, 1994. Formal expressions of intent to file an offer[1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 14, 1994 and requests for a public use condition must be filed by February 24, 1994. Petitions to stay must be filed by February 22, 1994, and petitions to reopen must be filed by March 1, 1994.

ADDRESSES: Send pleadings referring to Docket No. AB–6 (Sub-No. 357X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; (2) Petitioner's representative: Sarah J. Whitley, 3800 Continental Plaza, 777 Main Street, Fort Worth, Texas 76012–5384.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927–5610 [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

Decided: January 27, 1994.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–2581 Filed 2–3–94; 8:45 am]

BILLING CODE 7035–01–P

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

Corrected Notice of Exemption[1] Nebkota Railway, Inc.—Acquisition and Operation Exemption; Line of Chicago and North Western Transportation Company

[Finance Docket No. 32442]

NEBKOTA Railway, Inc. (NEBKOTA), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate a 73.5-mile line of the Chicago and North Western Transportation Company (CNW) between Merriman, NE, at or near milepost 331.0, and Chadron, NE., at or near milepost 404.5.

[1] A notice served and published in the **Federal Register** on January 24, 1994, incorrectly conditioned the exemption to protect employees affected by the acquisition and operation under *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), and employees affected by the trackage rights under *Norfolk and Western R. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980). Those conditions should not have been included; they are not routinely imposed in an exemption from the requirements of 49 U.S.C. 10901.

The transaction includes incidental trackage rights for NEBKOTA over a 27.8-mile CNW rail line between Chadron, NE, at or near milepost 404.5, and Crawford, NE, at or near milepost 432.3, to allow NEBKOTA to interchange with Burlington Northern Railroad Company. The transaction was to become effective on or after January 10, 1994. The parties certify that NEBKOTA's projected revenues do not exceed those that would qualify it as a class III carrier.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on Thomas F. McFarland, Jr., Belnap, Spencer, McFarland & Herman, 20 North Wacker Drive, suite 3118, Chicago, IL 60606–3103.

Decided: January 14, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary

[FR Doc. 94–2585 Filed 2–3–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—News in the Future Consortium

Notice is hereby given that, on January 13, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Massachusetts Institute of Technology ("MIT"), on behalf of the News In The Future ("NIF") Consortium, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies have become members of NIF: The Chronicle Publishing Company, San Francisco, CA; and Thomson Newspapers Corporation, Stamford, CT.

No other changes have been made in either the membership or planned activity of the group research project. NIF will file additional written notification disclosing all changes in membership.

On May 18, 1993, NIF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 1993 (58 FR 33,953).

The last notification was filed with the Department on September 15, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 7, 1993 (58 FR 52327).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 94–2537 Filed 2–3–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 92–09

Notice is hereby given that, on January 10, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 92–09, titled "Evaluation of Toxicity of Hydrogen Fluoride at Short Exposure Times," filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a membership change. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Citgo Refining and Chemicals, Inc., Corpus Christi, TX has become a member of the project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in the project remains open until issuance of the final Project Report, which is presently expected to occur about twelve months after the beginning of the project. The parties intend to file additional written notification disclosing all changes in membership. Information regarding participation in the project may be obtained from: Dr. P. A. Naro, Environmental and Health Sciences Laboratory, Mobil Oil Corporation, P.O. Box 1029, Princeton, NJ 08543–1029.

On April 12, 1993, the participants in PERF Project No. 92–09 filed the original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31416). The last notification was filed with the Department on October 21, 1993. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 22, 1993 (58 FR 61717).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 94–2536 Filed 2–3–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1994 Adverse Effect Wage Rates and Allowable Charges for Agricultural and Logging Workers' Meals

AGENCY: Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs) and allowable charges for meals for 1994.

SUMMARY: The Director, U.S. Employment Service, announces 1994 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H–2A) workers for temporary or seasonal agricultural labor or services and the allowable charges employers seeking nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H–2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Director also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

EFFECTIVE DATE: February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Hancock, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room N4456, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–219–8666 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H–2A) workers to perform agricultural labor or services of a temporary or seasonal nature in the United States unless the petitioner has applied to the Department of Labor (DOL) for an H–2A labor certification. The labor certification must show that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H–2A program require that covered employers offer and pay their U.S. and H–2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502–20505 (June 1, 1987).

A. Adverse Effect Wage Rates (AEWRs) for 1994

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H–2A) agricultural workers. DOL emphasizes, however, that such employers must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR Part 655, Subpart B, the regionwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR 655.93) for which temporary alien agricultural labor (H–2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 1994 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE—1994 ADVERSE EFFECT WAGE RATES (AEWRS)

State	1994 AEWR
Alabama	$5.43
Arizona	5.52
Arkansas	5.26
California	6.03
Colorado	5.57
Connecticut	5.97
Delaware	5.92
Florida	6.02
Georgia	5.43
Hawaii	8.36
Idaho	5.59
Illinois	6.02
Indiana	6.02
Iowa	5.76
Kansas	6.03
Kentucky	5.29
Louisiana	5.26
Maine	5.97
Maryland	5.92
Massachusetts	5.97
Michigan	5.64
Minnesota	5.64
Mississippi	5.26
Missouri	5.76
Montana	5.59
Nebraska	6.03
Nevada	5.57
New Hampshire	5.97
New Jersey	5.92
New Mexico	5.52
New York	5.97
North Carolina	5.38
North Dakota	6.03
Ohio	6.02
Oklahoma	4.98
Oregon	6.51
Pennsylvania	5.92
Rhode Island	5.97
South Carolina	5.43
South Dakota	6.03
Tennessee	5.29
Texas	4.98
Utah	5.57
Vermont	5.97
Virginia	5.38
Washington	6.51
West Virginia	5.29
Wisconsin	5.64
Wyoming	5.59

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H–2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H–2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H–2B logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI–U for Food between December of the year just past and December of the year prior to that. The regulations require the Director, U.S. Employment Service, to make the annual adjustments and to cause a notice to be published in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 1993 rates were published in a notice on February 1, 1993 at 58 FR 6643.

DOL has determined the percentage change between December of 1992 and December of 1993 for the CPI–U for Food was 2.2 percent.

Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 1994 are as follows: (1) For 20 CFR 655.102(b)(4) and 655.202(b)(4), the charge, if any, shall be no more than $6.81 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to $8.51 per day for providing them

with three meals per day, if the employer justifies the charge and submits to the RA the documentation required to support the higher charge.

Signed at Washington, D.C., this 25th day of January, 1994.

Robert A. Schaerfl,

Director, U.S. Employment Service.

[FR Doc. 94–2545 Filed 2–3–94; 8:45 am]

BILLING CODE 4510–30–M

Advisory Council on Unemployment Compensation; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Section 908 of the Social Security Act, as amended by the Emergency Unemployment Compensation Act of 1991 and the Unemployment Compensation Amendments of 1993, the Secretary of Labor has renewed the charter of the Advisory Council on Unemployment Compensation (hereinafter called the Council).

The Council will advise the President and Congress on the effectiveness of the unemployment compensation program and shall conduct a study to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency and any other aspects of the program and make recommendations for improvement.

No later than February 1, 1995, the Council shall prepare and submit a written report to the President and to the appropriate committees of Congress. This report will contain—

(1) The findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program under Section 908 of the Social Security Act; and

(2) The findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States, or subdivisions of States.

The Council's renewed charter is for two years.

The Unemployment Insurance Service of the Employment and Training Administration of the Department of Labor will provide the Council with appropriate administrative assistance.

Interested persons are invited to submit comments regarding the charter renewal of the Advisory Council on Unemployment Compensation. Such comments should be addressed to: Esther R. Johnson, Department of Labor, Employment and Training Administration, Unemployment Insurance Service, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 219–7831.

Signed at Washington, D.C. this 31st day of January 1994.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 94–2544 Filed 2–3–94; 8:45 a.m.]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

[Docket No. NRTL–2–92]

Canadian Standards Association

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of expansion of current recognition as a Nationally Recognized Testing Laboratory.

SUMMARY: This notice announces the Agency's final decision on the Canadian Standards Association, Rexdale (Toronto) facility, application for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Canadian Standards Association previously made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970, (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR 1910.7, for recognition of its Rexdale (Toronto) facility as a Nationally Recognized Testing Laboratory (see 57 FR 23429, 6/3/92; amended 57 FR 48804, 10/28/92), and was so recognized (see 57 FR 61452, 12/24/92).

CSA applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory for five test standards pursuant to 29 CFR 1910.7 which was published in the **Federal Register** on December 10, 1993 (58 FR 64973). (See Exhibit 7.).

Notice is hereby given that CSA's recognition as a Nationally Recognized Testing Laboratory for its Rexdale (Toronto) facility has been expanded to include the five test standards (product categories) listed below.

Copies of all pertinent documents (Docket No. NRTL–2–92), are available for inspection and duplication at the Docket Office, Room N–2634, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

The address of the laboratory covered by this application is: Canadian Standards Association, Toronto Facility, 178 Rexdale Boulevard, Rexdale (Toronto), Ontario M9W1R3, Canada.

Final Decision and Order

Based upon the facts found as part of the Canadian Standards Association Rexdale (Toronto) facility original recognition, including details of necessary test equipment, procedures, and special apparatus or facilities needed, adequacy of the staff, the application, amendments, and documentation submitted by the applicant (see Exhibit 8. A.–D.), the OSHA staff finding including the original On-Site Review Report, as well as the evaluation of the current request (see Exhibit 8. E.), OSHA finds that the Canadian Standards Association's Rexdale (Toronto) facility has met the requirements of 29 CFR 1910.7 for expansion of its present recognition to test and certify certain equipment or materials.

Pursuant to the authority in 29 CFR 1910.7, the CSA Toronto (Rexdale) facility's recognition is hereby expanded to include the five additional test standards (product categories) cited below, subject to the conditions listed below. This recognition is limited to equipment or materials which, under 29 CFR Part 1910, require testing, listing, labeling, approval, acceptance, or certification by a Nationally Recognized Testing Laboratory. This recognition is limited to the use of the following five additional test standards for the testing and certification of equipment or materials included within the scope of these standards.

CSA has stated that these standards are used to test equipment or materials which can be used in environments under OSHA's jurisdiction, and OSHA has determined that they are appropriate within the meaning of 29 CFR 1910.7(c).

UL 1278—Movable and Wall- or Ceiling-Hung Electric Room Heaters
UL 1419—Professional Video and Audio Equipment
UL 1492—Audio and Video Equipment
UL 1963—Refrigerant Recovery/Recycling Equipment
ANSI/ASME B17.5—Elevators and Escalator Electrical Equipment

The Canadian Standards Association Rexdale (Toronto) facility must also abide by the following conditions of this expansion of its recognition, in addition to those already required by 29 CFR 1910.7:

This recognition does not apply to any aspect of any Canadian Standards Association program which is available only to qualified manufacturers and is based upon the NRTL's evaluation and accreditation of the manufacturer's quality assurance program;

The Occupational Safety and Health Administration shall be allowed access to CSA's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If CSA has reason to doubt the efficacy of any test standard it is using under this program, it shall promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

CSA shall not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, CSA agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

All products certified within this program shall be tested and certified only at the Rexdale facility. Products which may have been previously evaluated at any of CSA's other facilities must be re-evaluated at the Rexdale facility in order to be considered to have been approved under the NRTL program.

In order to distinguish between products tested and certified by CSA under the OSHA/NRTL program at the Rexdale facility from all other CSA facilities or from non-NRTL programs, the following procedures shall be followed for all products tested and certified at the Rexdale facility under the OSHA/NRTL program:

Where the CSA registered certification mark is utilized on a label on the product, the label will also bear the acronym "NRTL";

The product shall also be clearly identified in the Directory of CSA Certified Products by using the "NRTL" acronym.

CSA shall inform OSHA as soon as possible, in writing, of any change of ownership or key personnel, including details;

CSA will continue to meet the requirements for recognition in all areas where it has been recognized; and

CSA will always cooperate with OSHA to assure compliance with the letter as well as the spirit of its recognition and 29 CFR 1910.7.

EFFECTIVE DATE: This recognition will become effective on February 4, 1994, and will be valid until December 24, 1997, (a period of five years from the date of the original recognition, December 24, 1992), unless terminated prior to that date, in accordance with 29 CFR 1910.7.

Signed at Washington, DC, this 28th day of January, 1994.

Joseph A. Dear,

Assistant Secretary.

[FR Doc. 94–2543 Filed 2–3–94; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–006]

Invention Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability for licensing.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

U.S. Patent Application Number 08/129,294, filed September 24, 1993, and entitled "Ultrasonic Dynamic Vector Stress Measurement Method and Sensor"—The present invention relates in general to dynamic stress measurement when a material is put under a load and more particularly to a method and apparatus for measuring changes in stress via a pulsed phase locked loop technique.

A stress measurement method and sensor according to the invention consists of directly and dynamically measuring stress changes at the location touched by a probe device when a material or structure is placed under a load. Electronics employing a pulsed phase locked loop (P2L2) technology are coupled to a probe system which is placed in contact with a material under stress. A gated signal from the voltage controlled oscillator (VCO), a free running oscillator on all the time, drives the transducer exciter at the transmitter and causes an acoustic wave to be propagated across a sample under stress. The VCO also sends a reference signal to the mixer. The output of the mixer represents the phase difference of the reference and propagated signals and serves as a feedback signal to the VCO. This phase difference tracks the changes in stress in the sample. The P2L2 reacts to the change in stress by changing its operating frequency according to a specified relationship. The AC component of the feedback signal represents the change in voltage needed to keep the system in quadrature to follow the change in stress. This signal is extracted for amplitude calibration. Calibration is accomplished by placing the probe on a plate of similar propagation factors and a known cyclic change in applied stress. The resulting AC signal multiplied by a calibration factor is equal to the stress.

The invention claimed in this patent application is available for licensing on an exclusive, partially exclusive or nonexclusive basis for upfront, running and annual minimum royalty payments to a partner committed to commercializing this technology.

ADDRESSES: Licensing information and a copy of the U.S. Patent Application (without the claims) may be obtained by writing to Kimberly A. Chasteen at the Office of Patent Counsel, Mail Stop 143, NASA Langley Research Center, Hampton, VA 23681–0001 (telephone (804) 864–3227, fax (804) 864–8298). Please note the case number, LAR–14,433–1, when requesting information.

Dated: January 28, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–2528 Filed 2–3–94; 8:45 am]

BILLING CODE 7510–01–M

[Notice 94–007]

Invention Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability for licensing.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

U.S. Patent Application Number 08/118, 466, filed September 7, 1993, and entitled "Method for Ultrasonic Imaging and Device for Performing the Method"—The present invention relates in general to ultrasonic imaging of internal structures and flaws in materials, and specifically to a new

method for coupling an ultrasonic transducer to a test specimen with irregular or complex surface geometry and a new device for performing the method.

The present invention is a method for ultrasonic imaging of interior structures and flaws in a test specimen with smooth or irregular contact surfaces, in which an ultrasonic transducer is coupled acoustically to the contact surface via a plurality of ultrasonic wave guides with equal delay times. The wave guides are thin and bendable, so they adapt to variations in the distance between the transducer and different parts of the contact surface by bending more or less. All parts of the irregular contact surface accordingly receive sound waves that are in phase, even when the contact surface is irregular, so a coherent sound wave is infused in the test specimen. The wave guides can be arranged in the form of an ultrasonic brush, with a flat head for coupling to a flat transducer, and free bristles that can be pressed against the test specimen. By bevelling the bristle ends at a suitable angle, shear mode waves can be infused into the test specimen from a longitudinal mode transducer.

The invention claimed in this patent application is available for licensing on an exclusive, partially exclusive or nonexclusive basis for upfront, running and annual minimum royalty payments to a partner committed to commercializing this technology.

ADDRESSES: Licensing information and a copy of the U.S. Patent Application (without the claims) may be obtained by writing to Kimberly A. Chasteen at the Office of Patent Counsel, Mail Stop 143, NASA Langley Research Center, Hampton, VA 23681–0001 (telephone (804) 864–3227, fax (804) 864–8298). Please note the case number, LAR–14, 621–1, when requesting information.

Dated: January 28, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–2529 Filed 2–3–94; 8:45 am]

BILLING CODE 7510–01–M

[Notice 94–008]

Invention Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability for licensing.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

U.S. Patent Application Number 08/153,930, filed November 15, 1993, and entitled "Method and Apparatus To Characterize Ultrasonically Reflective Contrast Agents"—The present invention relates in general to a method and apparatus for characterizing the time and frequency response of ultrasonically reflective contrast agents.

The present invention is a method and apparatus for characterizing the time and frequency response of an ultrasonically reflective contrast agent. An ultrasonically reflective contrast agent is injected, under constant pressure, into a fluid flowing through a pump flow circuit. The fluid and the ultrasonically reflective contrast agent are uniformly mixed in a mixing chamber, and the uniform mixture is passed through a contrast agent chamber. The contrast agent chamber is acoustically and axially interposed between an ultrasonic transducer chamber and an acoustic isolation chamber. A pulse of ultrasonic energy is transmitted into the contrast agent chamber from the ultrasonic transducer chamber. An echo waveform is received from the ultrasonically reflective contrast agent, and it is analyzed to determine the time and frequency response of the ultrasonically reflective contrast agent.

The invention claimed in this patent application is available for licensing on an exclusive, partially exclusive or nonexclusive basis for upfront, running and annual minimum royalty payments to a partner committed to commercializing this technology.

ADDRESSES: Licensing information and a copy of the U.S. Patent Application (without the claims) may be obtained by writing to Kimberly A. Chasteen at the Office of Patent Counsel, Mail Stop 143, NASA Langley Research Center, Hampton, VA 23681–0001 (telephone (804) 864–3227, fax (804) 864–8298). Please note the case number, LAR–14,969–1, when requesting information.

Dated: January 28, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–2530 Filed 2–3–94; 8:45 am]

BILLING CODE 7510–01–M

[Notice 94–009]

Invention Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability for licensing.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

U.S. Patent Application Number 08/141,294, filed October 19, 1993, and entitled "Optical Flameout Detector"—The present invention relates in general to flameout detectors for monitoring the presence of a flame and more particularly to an optical-based flameout detector.

An optical flameout device according to the invention monitors the presence of a flame within a combustion chamber. The optical flameout detection system responds to gross changes in combustor light intensity, which are monitored in two spectral bands. A photomultiplier tube makes optical measurements in the ultraviolet portion of the spectrum, and a silicon photodiode covers the visible region. The detectors, located outside the combustion chamber, receive the light energy radiated from the combustion process through fiber optic probes designed to operate in a high pressure environment. The optical fibers are aimed diagonally through the center of the injector at the combustion chamber wall downstream of the injector. The probed observe events occurring within a narrow conical-shaped field of view so that the system can quickly detect longitudinal movement of the flame front away from the injector. If a change in intensity of the flame is detected, the fuel supply to the combustion chamber is shut off, limiting the amount of unburned fuel in the combustion chamber which could reignite.

The invention claimed in this patent application is available for licensing on an exclusive, partially exclusive or nonexclusive basis for upfront, running and annual minimum royalty payments to a partner committed to commercializing this technology.

ADDRESSES: Licensing information and a copy of the U.S. Patent Application (without the claims) may be obtained by writing to Kimberly A. Chasteen at the Office of Patent Counsel, Mail Stop 143, NASA Langley Research Center, Hampton, VA 23681–0001 (telephone (804) 864–3227, fax (804) 864–8298). Please note the case number, LAR–14, 997–1, when requesting information.

Dated: January 28, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–2531 Filed 2–3–94; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Science Resources Studies; Notice of Amended Meeting Date

The January 20–21 meeting of this Panel was cancelled because of weather conditions. The meeting has been rescheduled and is being reprinted in its entirety. The original meeting appeared in the **Federal Register** on December 29, 1993 in Volume 58, Page 68970.

Name: Special Emphasis Panel in Science Resources Studies.

Date & Time: Feb. 14, 1994, from 6 p.m. to 8 p.m.; and Feb. 15, 1994, from 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA room 970.

Type of Meeting: Open.

Contact Person: Jennifer Sue Bond, Program Director, Science and Engineering Indicators Program, Division of Science Resources Studies, room 965, National Science Foundation, Arlington, VA 22230, Phone: (703) 306–1777.

Purpose of Meeting: Provide advice and suggestions regarding technical reports. Review the methodology report and a detailed codebook for the 1993 Joint NSF/NIH survey of Public Understanding of Science.

Agenda: Review draft methodology report; review codebook and draft analytical report for questionnaire 2 concerning public attitudes toward and understanding of biomedicine and behavioral sciences.

Minutes: May be obtained from contact person listed above.

Dated: January 31, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–2467 Filed 2–3–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Maintenance Inspection Procedure Public Workshop

SUMMARY: The United States Nuclear Regulatory Commission (USNRC) will hold a public workshop on March 31, 1994, to conduct initial discussions regarding the draft maintenance inspection procedure developed for use by NRC inspectors to verify the implementation of 10 CFR 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants" (the Maintenance Rule). The effective date of the Maintenance Rule is July 10, 1996.

NRC draft Inspection Procedure "Maintenance Inspection Procedure XXXXX" has been developed to ascertain compliance with the Maintenance Rule and to verify that licensees using NUMARC 93–01 "Industry Guidance for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants" have satisfactorily implemented the Maintenance Rule.

The commission believes that it would be beneficial to obtain public comment on this procedure from all interested parties at a public workshop. Participants are encouraged to ask questions and provide written comments on the procedure during the workshop. Written comments received from interested parties unable to attend the workshop will also be considered through April 14, 1994.

At the workshop, NRC representatives will present an overview of the inspection program, the contents of the maintenance inspection procedure and, as applicable, issues related to the Maintenance Rule and the NUMARC 93–01 industry guidance. NRC regional inspection representatives will be available to participate in the discussions. The workshop will provide the participants an opportunity to ask questions, make comments during the discussion or submit written comments for NRC consideration. The workshop will conclude with a summary of the major issues identified at the meeting. The planned use of the procedure during pilot inspections will also be discussed.

In order to ensure that adequate seating is available for the meeting, persons planning to attend the workshop are requested to either call the contact designated below or complete and forward the attached registration form to the same contact by March 25, 1994. A block of rooms has been reserved at the Holiday Inn Crown Plaza Hotel (1–800–638–5963) for the convenience of meeting attendees. These rooms will be available at a reduced group rate until March 9, 1994. Attendees should identify themselves with the NRC Maintenance Workshop, #4093, in order to ensure the group rate. The NRC however, does not encourage nor support frequenting this or any other specific establishment. The hotel will collect a ten dollar fee at room check in or the morning of the workshop to cover expenses for morning and afternoon refreshments.

The draft procedure "Maintenance Inspection Procedure XXXXX" is publicly available at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555 by referencing a memorandum from Gary G. Zech to Elizabeth J. Yeates, dated January 25, 1994.

DATE AND LOCATION: The meeting will be held from 9 a.m.–5 p.m. on March 31, 1994 at: Holiday Inn Crown Plaza, 1750 Rockville Pike, Rockville, Maryland 20852, (301) 468–1100.

WRITTEN COMMENTS, REGISTRATION FORMS OR FURTHER INFORMATION SHOULD BE ADDRESSED TO: Thomas Foley, M/S 10–A–19, U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, Telephone (301) 504–1036.

SUPPLEMENTARY INFORMATION: On July 10, 1991, the NRC published the "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants" as § 50.65 of 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities." The Commission determined that a Maintenance Rule was needed because proper maintenance is essential to plant safety, especially as plants age. The Maintenance Rule will become effective on July 10, 1996. The five year period to implement the rule permits time to develop implementation guidance, inspection procedures and sufficient time for licensees to implement the rule requirements to ensure full conformance by July 10, 1996.

Shortly after the Maintenance Rule was published, the NRC and the Nuclear Management and Resource Council (NUMARC) embarked on parallel efforts to develop rule implementation guidance. The NRC staff determined that the NUMARC document provided an acceptable method for licensees to implement the requirements of the Maintenance Rule. In June 1993, the Commission issued Regulatory Guide 1.160, "Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," which endorsed the NUMARC guidance, NUMARC 93–01, "Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," dated May 1993. Subsequently, NUMARC conducted a verification and validation (V & V) program, with NRC staff observation, to test their guidance on several representative systems at nine nuclear units. The V & V effort concluded that the guidelines were adequate to implement the Maintenance Rule.

The NRC staff has developed an inspection procedure to be used by NRC inspectors to verify the implementation of the Maintenance Rule requirements. The NRC staff expects to validate the inspection procedure during pilot inspections at selected nuclear power

facilities following the March 1994 workshop.

After considering the comments obtained from the workshop and information obtained during the implementation of the pilot inspections, the NRC staff expects to revise the inspection procedure as necessary, and conduct another workshop to provide interested parties an opportunity to participate in discussions on the results of the pilot inspections and any revisions to the inspection procedure.

For the Nuclear Regulatory Commission.

Thomas Foley,

Senior Operations Engineer, Division of Reactor Inspection and Licensee Performance, Office of Nuclear Reactor Regulation.

REGISTRATION FORM

UNITED STATES NUCLEAR REGULATORY COMMISSION MAINTENANCE RULE INSPECTION PROCEDURE WORKSHOP

March 31, 1994.

(PLEASE PRINT)
NAME: _____
(LAST) (FIRST) (MI)
COMPANY/ORGANIZATION: _____

POSITION/TITLE: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

Send Registration form to: Thomas Foley M/S 10–A–19, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

[FR Doc. 94–2533 Filed 2–3–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection Submitted to OMB for Review

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., chapter 35), this notice announces a request to revise the use of OPM Form 805 that collects information from the public. OPM Form 805, Application to be Listed Under the Voting Rights Act of 1965, is used to elicit information from persons applying for voter registration under the authority of the Voting Rights Act of 1965. The requirements for voter eligibility vary from State to State; therefore, OPM Form 805 is a blanket number covering 10 forms which conform to the individual State's requirements. The form requires 20 minutes to complete. Approximately 10 individuals complete the form annually for a total public burden of 4 hours.

For copies of this proposal call C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received by March 6, 1994.

ADDRESSES: Joseph Lackey, OPM Desk Officer, OIRA, room 3002, Office of Management and Budget, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Stephanie J. Peters (202) 606–1701.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–2507 Filed 2–3–94; 8:45 am]

BILLING CODE 6325–01–M

RESOLUTION TRUST CORPORATION

Revised Policy Statement for the Disposition of Residential Units Which Were Previously Subject to Rent and Securities Regulations

AGENCY: Resolution Trust Corporation.

ACTION: Revised statement of policy.

SUMMARY: The Resolution Trust Corporation (RTC) has revised its policy statement concerning the abrogation of leases on units in properties which were subject to state and local rent or securities regulations prior to their acquisition by the RTC as conservator or receiver for an insured depository institution. This policy modifies the current Statement of Policy for the Disposition of Residential Units Which Were Previously Subject to Rent and Securities Regulations, dated February 22, 1991, by increasing to 130 percent of area median income the maximum income of households governed by paragraph 4B of this policy.

EFFECTIVE DATE: This revised policy is effective February 4, 1994.

FOR FURTHER INFORMATION CONTACT: Barry R. Wides, Deputy Director, Affordable Housing Disposition Program, (800) 842–2970, extension 67138. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION:

1. Purpose

To revise the policy statement concerning the abrogation of leases on units in properties which were subject to state and local rent or securities regulations prior to their acquisition by the RTC as conservator or receiver for an insured depository institution.

2. Scope and Applicability

This statement of policy of the RTC is applicable when the RTC as conservator or receiver of an insured depository institution acquires cooperative and/or condominium residential dwelling units which were subject to state or local rent or securities regulations prior to their acquisition by the RTC.

3. Background

It is clearly the intention of the RTC to avoid displacing low- and moderate-income tenants from such units. However, in making this statement of policy, the RTC recognizes the competing interests associated with such regulated cooperative and condominium units. On the one hand, some state or local rent and securities regulations have provided for the regulation of rents and the continuation of certain tenancies at specified levels. On the other hand, the RTC's statutory duties are to expeditiously manage and resolve failed insured depository institutions, to maximize returns on their assets and comply with the affordable housing provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). The RTC, and ultimately the taxpayers, cannot be put in the position of continuing to underwrite rental of such units at a significant loss to the RTC, or be compelled to sell the units as tenant-occupied at greatly diminished values due to the possible applicability of the rent and securities regulations. The RTC has balanced the statutory mandates of the RTC and the state and local interests at issue, and has determined that disaffirmance or repudiation of leases of these units and the resulting preemption of state and local rent and securities regulations, is required in certain circumstances. The RTC has also determined that expanding the definition of low- and moderate-income from one hundred and fifteen percent (115 percent) of the median income in the area involved, to one hundred and thirty percent (130 percent) of the median income in the area involved, as determined by the U.S. Secretary of Housing and Urban Development (HUD) with adjustments for family size, will assist the RTC in meeting its statutory mandate to maximize the preservation of the availability and affordability of residential real property for low- and moderate-income individuals without significantly adversely affecting the ability of the RTC to satisfy its numerous other statutory duties. Accordingly, the RTC hereby revises its Statement of Policy for the Disposition of Residential Units Which Were

Previously Subject to Rent or Securities Regulations dated February 22, 1991, as stated in paragraph 4B below. All other material terms of the February 22, 1991, Statement of Policy remain unchanged.

4. Policy and Guidelines

A. The policy of the RTC will be to exercise its disaffirmance or repudiation powers with regard to cooperative and/or condominium residential dwelling units which were subject to state or local rent or securities regulations prior to their acquisition by the RTC as conservator or receiver of an insured depository institution when it determines that: (1) The insured depository institution is a party to the lease; (2) the performance of which the conservator or receiver determines, in its discretion, to be burdensome; and (3) the disaffirmance or repudiation of which the conservator or receiver determines, in its discretion, will promote the orderly administration of the institution's affairs, the RTC will not repudiate the leases.

B. Where the RTC finds that units are leased by low- or moderate-income tenants, the RTC will not exercise its disaffirmance or repudiation powers with respect to those units. For this purpose, a low- or moderate-income tenant is defined as a family or individual whose income does not exceed one hundred and thirty percent (130 percent) of the median income in the area involved, as determined by the U.S. Secretary of Housing and Urban Development (HUD), with adjustments for family size.

C. Where the RTC determines to disaffirm or repudiate leases of such units, the RTC may, in its discretion, offer the units for sale to the existing tenants or negotiate other arrangements, on terms which the RTC finds acceptable, in accordance with its mandate to maximize recoveries on the assets of the institutions in its control. If the existing tenants decline or fail to purchase the units or to enter into any other agreement acceptable to the RTC, the RTC will be free to consummate the disaffirmance or repudiation and to take whatever action it deems appropriate for the disposition of the units.

By order of the Executive Committee.

Dated at Washington, DC this 31st day of January, 1994.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 94–2475 Filed 2–3–94; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33542; File No. SR–CHX–93–19]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Stock Exchange, Incorporated Proposing to Establish Rules for an Institutional Trading System, Called the Match Market Exchange Facility

January 28, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 6, 1993, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to establish rules for an institutional trading system, the Match Market Exchange ("MMX") facility, that integrates an electronic order match system with a facility for brokering trades.

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 section (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 purpose of the proposed rule change is to establish rules for the MMX facility, an institutional trading system that integrates an electronic order match system with a facility for brokering trades. The MMX facility is designed to combine the advantages of current institutional order systems with the advantages of exchange trading.

Although the MMX will be operated by the Exchange, it was jointly developed by the CHX and Global Trade, Inc. Users of the MMX will include institutional customers, specialists, MMX market makers and brokers. These users will communicate with the MMX facility through personal computers and modems. The MMX facility will electronically match users' orders in an allocation procedure described more fully below. If an electronic match occurs, the trade will be priced at the market price at a random time within a pre-determined ten minute window period and will be executed at that time. If a match does not occur, users will still have the opportunity to find the other side of their trades through participating brokers.

2. Description of How the MMX Facility Operates

The following is a brief overview of the MMX facility, followed by a more detailed description about certain aspects of the system.

MMX will permit direct order entry by both CHX members and customers of those members. Prior to the time a non-member user enters orders into the system, the user will enter into an agreement with CHX agreeing to be bound by the Exchange's rules governing MMX and will submit the names of the Midwest Clearing Corporation members through which the user will clear. In order for the non-member user to designate a clearing firm, it must enter into a give-up agreement with the clearing firm and provide a copy to the Exchange. CHX member users will clear MMX transactions through their existing clearing arrangements.

For each order, the user will enter the following information:

- Stock ticker symbol;
- The number of shares;
- Capacity (buy, sell or sell short);
- The limit price (optional);
- Linked order conditions (optional);
- Minimum trade size (optional);
- Excluded category of contra parties (optional);
- Names of individual excluded users (optional);
- Liquidity fee or credit (optional);
- Near match range and near match broker (optional);
- Order visibility; and
- Clearing firm.

The user will send this information via modem to the MMX during the Pre-Cross Period. During this time users can review, edit or cancel their orders.

[1] 15 U.S.C. 78s(b)(1) (1988).

In addition to orders manually entered by users, MMX will include guarantees by MMX market makers. These market makers will be Exchange members who register with the Exchange to be MMX market makers. As such, they will be obligated to guarantee a maximum execution size to all users of the system. It is currently anticipated that the maximum size of the guarantee will be ten thousand shares per issue for a certain class of stocks, five thousand shares per issue for another class of stocks, and two thousand shares per issue for a third class of stocks. MMX market maker guarantees will automatically be entered at the beginning of the Pre-Cross Period and will include a default liquidity fee or credit to be associated with a specific MMX guarantee. (Liquidity fees and liquidity credits are discussed below.) MMX market makers can improve this liquidity fee or credit and increase the size of their guarantee during the Pre-Cross Period.

Users other than MMX market makers will have the option of having their orders displayed to other users of MMX. If a non-market maker user elects to have its order displayed, the order will be displayed under certain circumstances. Users will be charged lower fees for using the MMX Facility if they agree to have their orders displayed.

Finally, the CHX's CQS quotation will automatically be fed into the MMX Facility on a real-time basis. When the consolidated best bid and offer spread of an issue is 1/8, the MMX Facility will look at the CHX quote to determine whether there are orders which would be executed if a trade took place at the consolidated best bid or best offer (*i.e.*, if the CHX quote equaled the consolidated quote). If so, this bid and/or offer will be entered as an order in MMX. If entered, these orders will have the highest priority of execution.

All matched orders will be executed at a random time within a pre-determined ten minute window period at the market price at such time. The market price will be calculated based upon the spread of a particular issue. In issues where the spread in the consolidated best bid and offer is ¼ or other even fraction point spread, the cross will be priced at the middle of the spread. In issues with a consolidated best bid and offer spread of ⅜ or other odd fraction (other than ⅛), the price will be at the ⅛ closest to the last sale. In issues with a consolidated best bid and offer of ⅛, if there are more shares offered for sale in the MMX Facility (excluding the MMX market maker guarantee), then the ⅛ spread issues will cross at the bid. If, however, there are more bids than offers in the MMX facility, then the ⅛ spread issues will be crossed at the offer price. In the event that there are an equal number of shares on both sides of the CHX quotation, the cross will execute at the offer. Executions in MMX will be limited to those equity securities that are either listed or admitted to unlisted trading privileges ("UTP") on the CHX. Users may, however, enter orders for securities in which the Exchange does not have UTP; if a match is found in these securities, the cross will not be executed in MMX. Instead, these orders will be delivered to a broker-dealer who is eligible to execute the cross in the market in which it is traded.

Those orders that have been executed in the cross will be immediately transmitted by MMX to the Exchange for recordation and reporting to the Consolidated Tape. Trades will then be cleared by the designated clearing firm. After receiving an execution report (described below), institutions will then be able to reallocate trades to different clearing brokers, if desired.

Immediately after the cross, users will be notified if their orders have been executed. If an order was not executed, the user may receive an administrative message (depending on the "near match" parameters they have specified) asking whether the user wants a broker to call it to negotiate a trade with another user that has entered similar "near match" parameters.

3. Unique Aspects of the MMX Facility

The most fundamental feature of the MMX facility is the use of liquidity fees and liquidity credits to determine the level of priority for order matching. Rather than matching orders on the basis of time priority, the MMX facility provides incentives to those users that provide liquidity to the system. The size of the liquidity fee or credit determines the level of priority for order matching, with those users that are willing to pay the highest liquidity fee having the highest execution priority (except for orders that are part of the CHX quote) and those users desiring to be paid for providing liquidity (*i.e.*, orders with a liquidity credit) having the lowest execution priority. Liquidity fees and credits will only be paid when an order with a liquidity fee is matched with an order with a liquidity credit. When that happens, a liquidity fee that is equal to the size of the liquidity credit will be paid. In all other cases, no liquidity fees will be paid.

In order to provide executions that are equitable, immediately prior to the match, all orders for a security are first sorted into groups and then each group is prioritized for execution. Except for orders that are part of CHX's quote, which will be placed in one group and will receive the highest priority for execution, a group will consist of either all buy orders or all sell orders in a security that have the same liquidity fee or credit. Groups will be prioritized by liquidity fee or credit (as stated earlier).

Groups will only be matched if the liquidity credit required by orders in one group is less than or equal to the liquidity fee offered by orders in the other group. Groups will be matched starting with the group of buy orders with the highest priority. This group will be matched with the group of sell orders with the highest priority.

If the aggregate size of all orders in both groups is the same, all orders in both groups will be matched. If the aggregate size of all orders in both groups is not the same, orders in the group with the smaller aggregate size will be allocated among orders in the group with the larger size on a pro-rata basis. If this results in any order receiving an odd lot or a mixed lot (*e.g.*, 265 shares), the amount of shares that order receives shall be rounded down to the nearest round lot (*e.g.*, 200 shares). All the odd lots for a particular Group (*e.g.*, the 65 shares) shall be aggregated and then allocated to the largest order in the Group. If, after matching orders in a buy group with orders in a sell group, unmatched orders remain in the group of buy orders, MMX will continue the process of matching this group with successively lower priority groups of sell orders until all of the orders in the group of buy orders are either matched or are unable to be matched.

After completion of the match described above, MMX will continue the process of matching groups and orders within those groups in accordance with the rules described above starting with successively lower priority buy order groups until no more matches can be made.

Once all of the matches are made, MMX will determine whether any matched orders are conditional orders and if so, whether their conditions are fully satisfied. In the event that certain conditions are not fully satisfied, MMX will remove that order (and any other orders whose conditions are not fully satisfied). MMX will then erase the match for all orders in that security and will restart the matching process excluding all conditional orders whose conditions were not fully satisfied in the last matching process.

This matching process and liquidity fee/credit payment scheme results in the

liquidity fee being paid only when necessary, providing meaningful advantages to those willing to pay.

a. *Example* #1:

Buy group 1: Order 1—BUY 2000 XYZ
+ will pay 1¢/shr liquidity fee
Buy group 2: Order 1—BUY 2000 XYZ
Sell group 1: Order 1—SELL 2000 XYZ

Because the order in Buy group 1 is willing to pay a liquidity fee, this order will have the highest priority and will match with the order in Sell group 1. It will not be necessary for the order in Buy group 1 to pay a liquidity fee in this case.

b. *Example* #2:

Buy group 1: Order 1—BUY 2000 XYZ
+ will pay 1¢/shr liquidity fee
Buy group 2: Order 1—BUY 2000 XYZ
Sell group 1: Order 1—SELL 1000 XYZ
Sell group 2: Order 1—SELL 2000 XYZ
+ wants a 1¢/shr liquidity credit
Sell group 2: Order 2—SELL 2000 XYZ
+ wants a 1¢/shr liquidity credit

Because the order in Buy group 1 is willing to pay a liquidity fee, this order will match first with the order in Sell group 1 (1000 shares), then with the orders in Sell group 2 (each of whom will receive 500). The order in Buy group 1 will pay no liquidity fee for the order in Sell group 1, but will pay 1¢/share for the orders in Sell group 2. Thus, the user will only pay an average liquidity fee of ½¢/share. Note: The order in Buy group 2 would not participate in the match as the only shares remaining to be matched require that a liquidity fee be paid.

Orders willing to pay a liquidity fee will experience higher match rates than the other order types, with only an occasional payment of the liquidity fee. As in the above examples, because of the higher priority, a willingness to pay a higher liquidity fee will often result in a *lower* average liquidity fee paid or even *no* liquidity fee paid. Again, because of the priority rules, this system minimizes the liquidity fee rather than maximizing the shares matched. The CHX believes that this encourages users to enter liquidity fees and credits without fear of being disadvantaged by the system. These liquidity charges are exchange fees and credits and will be paid to the exchange for disbursal to those entitled to receive them.

4. Other Issues

As discussed above, while entering stocks into his computer, a user can include a limit price. This feature allows a user to specify a maximum buy price or minimum sell price to protect the user against large swings in the price of a stock that may occur between the time he enters the trade into his computer and the cross. If a limit price is entered, the order will not participate in the match if the stock is above (or below) the limit price at the time of the cross, depending on whether the order is a buy order (or sell order). Of course, if the stock is within the limit range, the execution price will be the same as for all other stocks in the cross.

In addition, as discussed above, users can enter linked orders. These are orders that are combined with other orders. For example, a user may only want to sell stock A if he can buy stock B. A user would then link his sell order of stock A to his buy order of stock B. Then, when the match occurs, the user's order to sell stock A will only be executed if the user's order to buy stock B is also executed. Otherwise, both orders will remain unmatched.

The MMX facility, by allowing linked orders and allowing orders that specify a limit price, allows money managers greater cash management capabilities. The CHX believes that this in turn will cause the effective match rate of the MMX facility to be greater than other crossing systems.

It should also be noted that a user can only prohibit a match with another particular user because of a concern that an ERISA violation might occur if a match took place.

5. Fees

The Exchange will only charge a fee to users of the MMX Facility if their order is executed (or matched, in the case of securities that are not listed on the Exchange or have UTP). The Exchange fee will be as follows: Orders entered by MMX market makers and orders that are part of CHX's quote will not be charged a transaction fee; users who enter orders that the user is willing to display will be charged $.005 per share; and all other users will pay $.02 per share. There will be no fee to enter or cancel orders in the system. The Exchange fee does not cover liquidity fees and credits. The MMX market makers will be paid ⅛th of a cent per share when they do not participate in a cross in their issue so long as the liquidity parameter enter by the MMX market maker is within a pre-determined range. This ⅛ of a cent per share fee will be paid by the Exchange out of the ½ of a cent (or 2 cent) user fee that CHX will receive from users of the MMX facility. This will provide the MMX Market Maker with an incentive to providing a guarantee. In the event there is more than one MMX market maker in an issue, the ⅛ of a cent per share fee will be paid to the MMX market maker that enters the highest liquidity fee or lowest liquidity credit. If more than one MMX market maker enters the same fee or credit, such fee will be pro-rated. An additional Exchange fee will be imposed on all users equal to the liquidity fee to be paid with respect to a particular order, and an Exchange credit will occur that is equal to the liquidity credit to be received. The clearing broker will collect all fees from institutions and submit the appropriate amounts to Midwest Clearing Corporation ("MCC"). MCC, in turn, will pay the appropriate amounts to clearing brokers for forwarding to institutions.

6. Surveillance

To protect against any potentially manipulative activity, the Exchange will monitor quote changes prior to the match and shortly thereafter to identify unusual trading activity.

7. "Near Match Orders" and Floor Broker Participation

Because of the possibility that the match rate will be below 100%, the MMX facility will allow users to send orders that are not crossed in the match to a broker in the event of a "near match." A near match is the presence of a buyer and seller in the MMX facility who did not match merely because the liquidity fees and credits that they required, differed. For example, a seller may be willing to sell and pay a 6 cent per share liquidity fee, but the buyer wants to be paid 7 cents per share for providing liquidity. If a near match occurs users will get administrative messages stating that a near match occurred. Each user would then have the option of indicating that it would like a pre-determined broker to call to negotiate that order. If both parties to the near match wish to negotiate, then the broker (or brokers) will receive a negotiate message. Because the broker or brokers do not learn anything about the order unless both parties to the near match have given their approval, the users of the MMX facility retain complete control during this process.

Similar to the "near match" function described above, floor brokers can enter a message that, after the match, will tell the users entering orders in a particular stock of an indication of interest in that stock (even when there is not an actual order). The user would then be free to contact the floor broker to negotiate a trade. The MMX facility will give users the ability to screen out indications if they become dissatisfied with the quality of the information.

8. Execution Reports

Execution reports will be sent after any execution occurs. For customers

using DTC's ID system, information will be forwarded to the clearing broker who will then submit the information to the ID system.

9. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition.

The Exchange believes that no burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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 principal office of the CHX. All submissions should refer to File No. SR–CHX–93–19 and should be submitted by February 25, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–2579 Filed 2–3–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33541; File No. SR–NASD–93–74]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to the Use of Geographic Indicators Appended to Market Maker Identifiers Disseminated Over the NASD's OTC Bulletin Board Service

January 28, 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 December 10, 1993, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to require market makers participating in the NASD's OTC Bulletin Board Service® ("OTCBB") to append a fifth-character, geographic indicator to their market maker identifier ("MMID") on the OTCBB screen when the firm's trading desk for a particular security quoted on the OTCBB is located away from the firm's primary trading office.[1] The following is new language to be added to the recently codified OTCBB rules. Language to be added is italicized.

OTC Bulletin Board® Service Rules

Section 4

(c) In cases where a market maker has more than one trading location, a fifth-character, geographic indicator shall be appended to the market maker's identifier for that security to identify the branch location where the security is traded. The fifth-character branch indicators are established by the Association and published from time to time in the Nasdaq/COS symbol directory.

[1] On January 5, 1994, the Commission approved an NASD proposal to codify the existing requirements respecting access to and the use of the OTCBB. See Securities Exchange Act Release No. 33433 (January 5, 1994), 59 FR 1772 (January 12, 1994) (File No. SR–NASD–93–56). Accordingly, the proposed OTCBB rule language contained in this filing would amend that recent codification.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD is proposing to amend section 4 of its OTCBB rules to require market makers participating in the OTCBB to append a fifth-character, geographic indicator to their MMIDs when the firm's trading desk for a security quoted on the OTCBB is located away from the firm's primary trading office. The NASD believes that the use of fifth-character, geographic indicators is necessary to avoid confusion and delay by market participants in contacting market makers in securities quoted on the OTCBB. Specifically, the NASD believes that the use of geographic indicators will ensure that traders will direct their calls to the appropriate location where the market maker for the stock is located and avoid instances where multiple phone calls are needed to access a market maker's quote.

In addition, the NASD believes mandatory use of the fifth-character, geographic indicator is necessary in light of developments associated with the NASD's Nasdaq Workstation II℠ service. Specifically, with Nasdaq Workstation II, market makers' telephone numbers will not be displayed on the OTCBB screen, but may be recalled separately. Accordingly, once Nasdaq Workstation II is in operation, unless fifth-character, geographic indicators are used, there may be confusion among market

participants concerning the trading location of securities quoted on the OTCBB. The NASD also notes that the use of fifth-character, geographic indicators already has been mandated for market makers in securities traded on The Nasdaq Stock Market®.[2]

2. Statutory Basis

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the NASD believes the use of fifth-character, geographic indicators is consistent with the maintenance of fair and orderly markets and the facilitation of transactions in securities because it will eliminate unnecessary confusion and delay in trading of securities and foster cooperation between members and market makers effecting trades in securities quoted on the OTCBB.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–2578 Filed 2–3–94; 8:45 am]

BILLING CODE 8010–01–M

[2] See Securities Exchange Act Release No. 31933 (February 26, 1993), 58 FR 12608 (March 5, 1993) (File No. SR–NASD–92–55).

[3] 17 CFR 200.30–3(a)(12) (1989).

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and to Withdraw Unlisted Privileges in an Over-the-Counter Issue

January 27, 1994.

On January 18, 1994, the Chicago Stock Exchange, Inc. ("CHX"), submitted an application for unlisted trading privileges ("UTP") pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, *i.e.*, a security not registered under Section 12(B) of the Act.

File No.	Symbol	Issuer
7–11957	MCAWA	McCaw Cellular Communications, Inc., Class A, $.01 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The CHX also applied to withdraw UTP pursuant to Section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
7–11958	CSFN	Corestates Financial Corporation, Common Stock, $1.00 par value.

A replacement issue is being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before February 17, 1994, written comments, data views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP as well as the withdrawal of UTP would be consistent with Section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–2580 Filed 2–3–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20038; File No. 811-5658]

ABT Money Market Series, Inc.; Application for Deregistration

January 27, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: ABT Money Market Series, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on October 27, 1993, and amended on December 13, 1993, and January 24, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 22, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 340 Royal Palm Way, Palm Beach, Florida 33480.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504-2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Maryland corporation. SEC records indicate that applicant filed a notification of registration under section 8(a) of the Act of September 12, 1988. On October 14, 1988, applicant filed a registration statement under the Securities Act of 1933 and section 8(b) of the Act. The registration statement was declared effective on January 9, 1989, and applicant's initial public offering commenced on January 24, 1989.

2. At a meeting held on February 5, 1993, applicant's board of directors resolved to liquidate applicant. An information statement outlining the plan of liquidation was filed with the SEC prior to the meeting, and was distributed to shareholders immediately following the meeting. The information statement represented that continued operation of applicant at its size was not economically feasible for applicant's shareholders or Palm Beach Capital Management, Ltd., applicant's investment adviser.

3. The plan of liquidation was approved by applicant's shareholders at a special meeting of shareholders on February 26, 1993. As of that date, there were 290,955.34 shares of applicant's common stock outstanding, and a net asset value per share of $1.00.

4. Applicant was liquidated on March 1, 1993, the next business day immediately following the meeting of applicant's shareholders. The final distribution to shareholders was based on the net asset per share on the date of liquidation. All expenses associated with the liquidation were assumed by applicant's adviser.

5. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor will it partake in, activities other than those associated with the winding up of its affairs.

6. Applicant will file a certificate of dissolution with the State of Maryland, as the intent is to dissolve the corporation.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94-2493 Filed 2-3-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. IC-20039; 812-8652]

The Griffin Funds, Inc., et al.; Notice of Application

January 27, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Griffin Funds, Inc. ("Griffin"), Griffin Financial Investment Advisers (the "Adviser"), Griffin Financial Services (the "Distributor"), on behalf of Griffin and all other open-end management investment companies for which the Adviser acts in the future as investment adviser or the Distributor acts in the future as principal underwriter (collectively with Griffin, the "Funds").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d), and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to issue an unlimited number of classes of shares representing interests in the same portfolio of securities, assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and waive the CDSC in certain instances.

FILING DATE: The application was filed on October 22, 1993, and amended on January 21, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 22, 1994 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 10100 Pioneer Blvd., suite 1000, Santa Fe Springs, California 90670-3736.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, (202) 272-5287, or C. David Messman, Branch Chief, (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Griffin is a Maryland corporation registered under the Act as an open-end management investment company. Griffin is a series company presently

consisting of seven separate investment portfolios (the "Portfolios"), each of which has separate investment objectives and policies. The Portfolios are sold primarily, but not exclusively, through offices of the Distributor, including locations in offices of Home Savings of America, FSB, a federally chartered savings association, which is affiliated with the Adviser and the Distributor.

2. The Adviser, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser to the Portfolios.

3. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934, serves as the sponsor and distributor of the Portfolios. The Distributor has entered into a distribution agreement with Griffin, pursuant to which it has responsibility for distributing shares of the Portfolios. The Portfolios also have adopted distribution plans pursuant to rule 12b–1 under the Act.

4. Applicants propose to establish a multiple distribution system (the "Multi-Class System"). Under the Multi-Class System, some or all of the Funds intend to offer three classes of shares: (a) a class offered in connection with a plan adopted pursuant to rule 12b–1 under the Act (the "12b–1 Class"), (b) a class offered in connection with a non-rule 12b–1 services plan (the "Non-12b–1 Class"), and (c) a trust class (the "Trust Class"). In addition, the Funds may create additional 12b–1 Class, Non-12b–1 Class, and Trust Class shares that differ according to the characteristics described below.

5. The 12b–1 Class shares will be offered pursuant to a plan of distribution (the "12b–1 Plan") approved by the directors of a Fund in accordance with rule 12b–1 under the Act. Shares of the 12b–1 Class will be sold to investors purchasing directly from a Fund's distributor, or to clients of certain financial institutions that have entered into agreements with the Fund or the Fund's distributor to provide necessary distribution and administrative services with respect to the 12b–1 Class. Distribution activities financed in accordance with a 12b–1 Plan may include advertising and marketing expenses, printing costs for new prospectuses and sales literature, and payments to broker/dealers and others for distribution assistance.

6. The Non-12b–1 Class will be offered pursuant to a non-rule 12b–1 servicing plan (the "Services Plan," and together with the 12b–1 Plans, the "Plans") approved by the board of directors of a Fund under which a Fund will enter into servicing agreements with qualified financial institutions ("Organizations") to provide necessary administrative support services to customers of Organizations who are the beneficial owners of Non-12b–1 Class shares. Services provided pursuant to a Services Plan may include subaccounting; establishing and maintaining accounts and records; aggregating and processing purchase and redemption orders; investing customers' assets in shares of the Non-12b–1 Class; providing periodic statements; arranging for bank wires; processing dividend payments; answering routine inquiries; assisting customers in changing divided options, account designations, and addresses; forwarding shareholder communications; and other similar services.

7. The Trust Class will be sold primarily to financial institutions in their capacity as fiduciaries for certain accounts, such as living trusts, irrevocable trusts, foundations, endowments, retirement plans, and agency or custodial accounts. The financial institutions provide services for the beneficial owners of Trust Class shares, such as determining the appropriateness of investments, working with attorneys or accountants under the terms of a fiduciary relationship, providing tax information, preparing and sending account statements, responding to inquiries, forwarding shareholder communications, and establishing and maintaining account records. Trust Class shares will not be subject to 12b–1 Plans or Services Plans.

8. The services provided under the Plans will not duplicate the services provided to the Funds by the Adviser or the Distributor. Applicants will comply with the recent amendments to Article III, Section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the "NASD") regarding asset-based sales charges and service fees. See Securities Exchange Act Release No. 30897 (July 7, 1992).

9. The Funds may in the future create one or more classes of shares that would bear higher ongoing distribution charges and/or services fees ("Class B shares") and that would automatically convert into shares of another class that bears lower ongoing distribution charges and/or services fees ("Class A shares") up to six year after the purchase of Class B shares.

Shares purchased though the reinvestment of dividends and other distributions paid in respect of Class B shares also would be Class B shares. For purposes of conversion to Class A shares, Class B shares purchased through reinvestment of dividends and other distributions will be considered to be held in a separate sub-account. Each time any class B shares not purchased through reinvestment of dividends or other distributions convert to Class A shares, a *pro rata* portion of the Class B shares held in the sub-account will convert into Class A shares. The *pro rata* protion will be equal to the percentage of the shareholder's Class B shares not purchased through reinvestment of dividends or other distributions that are converting into Class A shares relative to the shareholder's total Class B shares not purchased through reinvestment of dividends or other distributions.

10. The conversion of Class B shares into Class A shares would be subject to the availability of an opinion of counsel or Internal Revenue Service private letter ruling to the effect that the conversion of Class B shares does not constitute a taxable event under federal income tax law. The conversion may be suspended if such a ruling or opinion is not available. In that event, no further conversions would occur and Class B shares might be subject to a higher level of ongoing distribution charges and/or service fees for an indefinite period.

11. Shareholders generally will be limited to exchanging shares only for shares of the same or a similar class of shares of another portfolio within the same group of investment companies, as such term is defined in rule 11a–3 under the Act. The exchange policies of the Funds would, in all events, comply with rule 11a–3.

12. In addition to expenses incurred under a 12b–1 Plan or Services Plan, each class of shares will bear certain expenses specifically attributable to the particular class as set forth in Condition 1 below ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by a Fund's directors in the manner described in Condition 3 below.

13. Each portfolio of a Fund will be charged with the direct liabilities of that portfolio and with a portion of the general liabilities of the Fund in the same proportion that the assets of the portfolio bear to the assets of the Fund. In addition, all outstanding shares representing interests in the same portfolio will bear the portfolio expenses, which would first be allocated *pro rata* to each class on the basis of the relative net asset value of the respective class, and then further allocated on a per share basis within the class, except that each class will bear the Class Expenses applicable to such class.

14. Applicants also propose that the Funds be permitted to impose a CDSC on redemptions of one or more classes of shares that are not subject to a front-end sales load and waive the CDSC in certain instances. The amount of the CDSC and the timing of its imposition may vary. Applicants also propose to impose a CDSC of up to 1% on redemptions that occur within a year of the purchase date of certain classes of shares that are subject to a front-end sales load in cases where the front-end sales load has been waived because the initial purchases of such shares totals $1,000,000 or more.

15. No CDSC will be imposed with respect to redemptions attributable to increases in the value of an account above the net cost of the investment due to increases in the net asset value per share. No CDSC will be imposed on shares acquired through reinvestment of income dividends or capital gain distributions, or shares purchased a specified period of time prior to the redemptions. In determining whether a CDSC is payable, it will be assumed that shares, or amounts representing shares, that are not subject to a CDSC are redeemed first and that other shares or amounts are then redeemed in the order purchased. No CDSD will be imposed on any shares purchased prior to the effective date of the order.

16. Applicants intend to waive the CDSC on redemptions of shares in one or more of the following categories: (a) Following the death or disability (as defined in the Internal Revenue Code of 1986, as amended) of a shareholder; (b) representing a minimum required distribution from an IRA or other retirement plan to a shareholder who has reached age 70½; (c) incurred by current employees of the investment adviser to the Funds, or by current or former directors of the Funds; or (d) resulting from a Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the effective minimum account size. Applicants may waive the CDSC in the case of some, but not all, of these categories, provided that the selected waiver categories will be provided on a Fund-wide basis. Applicants' prospectuses will list all available waiver categories.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed Multi-Class System might be deemed to result in a "senior security" within the meaning of section 18(g) of the Act, and thus be prohibited by section 18(f)(1), and violate the equal voting provisions of section 18(i) of the Act.

2. Section 18 is intended to prevent investment companies from issuing excessive amounts of senior securities and thereby increasing unduly the speculative character of their junior securities, or from operating without adequate assets or reserves. The proposed Multi-Class System does not involve borrowings and does not affect the Funds' existing assets or reserves. Nor will the Multi-Class System increase the speculative character of the shares of a Fund, since all shares will participate *pro rata* in all of a Fund's income and expenses (with the exception of Class Expenses).

3. Applicants assert that the Multi-Class system will preserve mutuality of risk with respect to all shares of a Fund. Further, since all shares will be redeemable at all times, no class of shares will have any preference or priority over any other class in a Fund in the usual sense (that is, no class will have distribution or liquidation preferences with respect to particular assets and no class will be protected by any reserve or other account), and the similarities (and, with respect to Class Expenses and associated voting rights, dissimilarities) of the shares will be fully disclosed in the prospectuses for each class of a Fund, investors will not be given misleading impressions as to the safety or risk of the shares and the nature of the shares will not be rendered speculative.

4. Applicants also request an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder to the extent necessary to permit the Funds to assess a CDSC on certain redemptions of shares and waive the CDSC in certain instances. Applicants believe that the implementation of the CDSC in the manner and under the circumstances described above would be fair, in the public interest and the interest of the shareholders of the Funds, and would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. Each class of shares representing interests in the same portfolio of a Fund will be identical in all respects, except for differences related to: (a) The method of financing certain Class Expenses, which are limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, reports, and proxies to current shareholders of a specific class or to regulatory agencies with respect to a specific class of shares; (iii) blue sky registration or qualification fees incurred by a class of shares; (iv) SEC registration fees incurred by a class of shares; (v) the expense of administrative personnel and services as required to support the shareholders of a specific class of shares; (vi) different levels of 12b–1 Plan and/or Services Plan fees and expenses ("Plan Payments") incurred by a class of shares; (vii) litigation or other legal expenses relating solely to one class of shares; and (viii) directors' fees incurred as a result of issues relating to one class of shares; (b) priorities with respect to the payment of dividends and distributions (which priorities would reflect only the impact of Class Expenses properly allocated to one class); (c) the net asset values of the various classes of shares in a portfolio that may differ as a result of the allocation of Class Expenses; (d) voting rights of the classes with respect to the Plans; (e) the different exchange privileges, if any, of such classes as described in the prospectuses (and statements of additional information) of the portfolios and consistent with any order granted pursuant to this application; (f) class designation differences; and (g) the conversion of shares of one class to shares of a second class up to six years after the purchase of the shares of the first class, which classes differ with respect to the distribution services and administrative support fees payable by such classes of shares. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The directors of a Fund, including a majority of the independent directors, will approve the creation of additional classes of shares from time to time by an affirmative vote prior to the creation of any such class. The minutes of the meetings of the directors regarding the deliberations of the directors with respect to the approvals necessary to create any additional class of shares will reflect in detail the reasons for the directors' determination that the creation is in the best interests of both the Fund involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and

approved by a vote of the directors of a Fund, including a majority of the directors who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the fund to meet Class Expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the directors of a Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the portfolios for the existence of any material conflicts between the interests of the classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Distributor and the Adviser will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Distributor and the Adviser at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Services Plan will be adopted and operated in accordance with the procedures set forth in paragraphs (b) through (f) of rule 12b–1 as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders of the Non-12b–1 class will not receive the voting rights specified in rule 12b–1.

6. The directors of a Fund will receive quarterly and annual statements concerning Plan Payments (including, in the case of 12b–1 Plans, expenditures relating to distribution) complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale (in the case of 12b–1 shares) or servicing of a particular class of shares will be used to justify any distribution (in the case of 12b–1 shares) or servicing fee charged to that class. Expenditures not related to a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends or other distributions paid by a Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be paid at the same dividend rate, except that any Plan Payments and other Class Expenses relating to a particular class of shares will be borne exclusively by the applicable class.

8. The methodology and procedures for calculating the net asset values, dividends, and distribution of the classes of shares and the proper allocation of expenses between those classes have been reviewed by an expert (the "Expert") who has rendered a report to applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to applicants that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff, upon the written request to the Fund for such work papers, by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on the policies and procedures placed in operation," and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards that may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values, dividends and distributions of the classes of shares and the proper allocation of expenses between such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in Condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in Condition 8 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus for each portfolio with more than one class will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation for selling or servicing one particular class of shares over another class in the same portfolio.

11. The distributor of a Fund will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares to agree to conform to such standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of a Fund with respect to the Plans and related agreements will be set forth in guidelines which will be furnished to the directors of the Fund.

13. Each portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, transfer agency expenses, sales loads, deferred sales loads, conversion features, and exchange privileges applicable to each class of shares of such portfolio in every prospectus, regardless of whether all classes of shares in the portfolio are offered through the prospectus. Each portfolio will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the portfolio as a whole generally and not on a per class basis. Each portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares in a portfolio, it will also disclose the respective expenses and/or performance data applicable to all classes of shares in each portfolio. The information provided by a Fund for publication in any newspaper or similar listing of each portfolio's net asset value and public offering price will present each class of shares separately.

14. Any class of shares with a conversion feature ("Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After

conversion, the converted class will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

15. If a Fund implements any amendment to its 12b-1 Plan (or, if presented to shareholders, adopts or implements any amendment of a Services Plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, Purchase Class shares will stop converting into Target Class unless the holders of Purchase Class shares, voting separately as a class, approve the proposal. The directors of the Funds shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class shares as they existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors of the Funds to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class shares will convert into New Target Class shares. New Target Class shares or New Purchase Class shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors of the Funds reasonably believe will not be subject to federal taxation. In accordance with Condition 4 above, any additional cost associated with the creation, exchange, or conversion of New Target Class shares or New Purchase Class shares shall be borne solely by the adviser and the distributor of the Fund. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class shares plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

16. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that a Fund may make pursuant to a Plan in reliance on the exemptive order.

17. Applicants will comply with the provisions of proposed rule 6c-10 under the Act (Investment Company Act Release No. 16619 (Nov. 2, 1988)), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–2494 Filed 2–3–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel No. IC–20040; 812–8412]

Heber J. Grant & Company; Notice of Application

January 27, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Heber J. Grant & Company.

RELEVANT ACT SECTION: Section 6(c).

SUMMARY OF APPLICATION: Applicant, a privately held company substantially owned and controlled by one family and certain persons and entities employed by, controlled by, affiliated with, or otherwise related to members of that family, seeks an exemption from all provisions of the Act.

FILING DATE: The application was filed on May 20, 1993, and amended on September 17, 1993, December 10, 1993, and January 26, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 22, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549, Applicant, 447 East 100 South, Salt Lake City, Utah 84147.

FOR FURTHER INFORMATION CONTACT: Felicia H. Kung, Senior Attorney, at (202) 504–2803, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Heber J. Grant & Company, a Utah corporation, was organized in 1888 by its founder, Heber J. Grant, to consolidate his various business interests into a single enterprise. Applicant operates as an insurance agency, engaged in both wholesale activities as a general agent and as a retail agent selling directly to the public, through an 83.5 percent-owned subsidiary. Applicant proposes to dispose of its insurance subsidiary, after which applicant's principal asset would be investment securities.

2. Currently, there are 148,856 shares of applicant's common stock ($1.00 par value) outstanding, held by approximately 250 shareholders. During his lifetime, applicant's founder transferred or donated shares of applicant's stock to family members, and to other parties. Applicant's stock has never been offered or sold to the public, and applicant has not sold its shares to any person since before 1920. Of the issued and outstanding stock, 60.4 percent is held by direct descendants of Heber J. Grant, their spouses, and 32 family trusts and one partnership for the exclusive benefit of direct descendants of Heber J. Grant or their spouses and in which such persons collectively exercise sole voting and dispositive power; 16.5 percent is owned by the Church of Jesus Christ of Latter-Day Saints (the "LDS Church"), for which Heber J. Grant served as president between 1919 and 1945; 13.7 percent is held by 66 present or former executive employees of applicant, and the remaining 9.4 percent is held by 53 descendants of donees of Heber J. Grant. To the best of applicant's knowledge, its stock has not been quoted in any active trading market, and no stock has been sold through securities broker-dealers.

3. Applicant's transfer records for the past twelve years indicate that transfers of applicant's stock were made as part of the estate planning of living shareholders, and as a result of the death of other shareholders and the transfer of stock to descendants. Applicant believes that all of such transfers were made to family members of applicant's founder, Heber J. Grant. In addition, all purchases and sales of applicant's stock noted in such transfer

records were executed among existing shareholders.

4. Five of the nine members of applicant's board of directors are direct descendants of Heber J. Grant. The other directors consist of a high governing official of the LDS Church, former and current officers of applicant's subsidiary, and a former president of a principal insurance customer of applicant's subsidiary that is the real estate arm of the LDS Church.

5. For more than fifteen years, applicant has furnished annually to its shareholders consolidated financial statements prepared in accordance with generally accepted accounting principles. Applicant intends to continue to provide such annual financial statements to its shareholders. Such financial statements will not be audited because of the small amount of the assets involved and the limited nature of applicant's operations.

Applicant's Legal Analysis

1. Section 3(a)(3) of the Act generally provides that an investment company includes any issuer that is engaged in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total unconsolidated assets. Applicant states that it currently is not subject to the Act because of the nature of the assets and operations conducted by its insurance subsidiary. After applicant's disposal of its subsidiary, investment securities will constitute applicant's principal assets. Accordingly, applicant may be subject to the Act.

2. Section 3(c)(1) of the Act excepts from the definition of "investment company" any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making, and does not presently propose to make, a public offering of its securities. Applicant asserts that section 3(c)(1) was not intended to include "private" investment companies within the purview of the Act and that under section 6(c) the SEC may exempt private investment companies that have more than 100 beneficial owners. See *Maritime Corporation*, 9 SEC 906, 909 (1941). Applicant contends that its request for a conditional order under section 6(c) of the Act is consistent with relief granted to other private investment companies substantially owned and controlled by a single family. *See, e.g., Bessemer Securities Corporation*, Investment Company Act Release Nos. 18529 (notice) (Feb. 5, 1992) and 18594 (order) (March 3, 1992); *Richardson Corporation*, Investment Company Act Release Nos. 16566 (notice) (Sept. 22, 1988) and 16606 (order) (Oct. 21, 1988); *5600, Inc.*, Investment Company Act Release Nos. 16004 (notice) (Sept. 25, 1987) and 16067 (order) (Oct. 21, 1987). These orders were issued subject to restrictions that ensured that the investment vehicles would remain family controlled, private enterprises.

3. Applicant seeks a conditional order under section 6(c) of the Act to exempt it from all provisions of the Act and all rules and regulations promulgated thereunder. Applicant states that it is essentially a closely-held, private company for which the protections provided to investors under the Act are not necessary or appropriate in the public interest. Applicant represents that it does not seek additional capital through the sale of securities, but focuses its investment strategy on preserving, protecting, and obtaining appreciation on the capital accumulated as a result of the business activities of its founder during his lifetime. Applicant asserts that after disposition of its insurance subsidiary, it will remain a private investment vehicle for the continuation of the business and investment principles of its founder. Applicant states that it has not taken any steps to facilitate development of a trading market for applicant's common stock, and that conditions 5 and 6, as stated below, ensure that applicant will continue to be at least 80 percent owned by the categories of shareholders that currently hold applicant's stock.

4. Applicant states that, in accordance with the Utah Revised Business Corporation Act, it will adopt an amendment to its articles of incorporation that will provide a corporate right of redemption tantamount to a right of refusal in the event that an existing shareholder proposes to sell shares of applicant's stock to a person not included in the category of shareholders described in condition 4. Applicant believes that this right of redemption will enable applicant to maintain its essentially private nature.

5. Applicant believes that the requested 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.

Applicant's Conditions

If the requested relief is granted, applicants agree to the following conditions:

1. Applicant will continue to hold annual meetings of its stockholders for the purpose of electing directors and transacting such other business as may properly come before such meetings.

2. Applicant will continue to furnish annually to its stockholders its financial statement prepared in accordance with generally accepted accounting principles, consistently applied, together with a brief description of the business done by applicant during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of applicant. Because of the small amount of assets involved and the limited nature of applicant's operations, such financial statement will not be audited.

3. Applicant will not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning applicant for the purpose of knowingly enabling that broker or dealer to initiate any regular trading market for applicant's common stock.

4. Applicant will be at least 80 percent owned by or for the benefit of the direct descendants of Heber J. Grant and/or their spouses; direct descendants of donees of Heber J. Grant; family trusts, estates, partnerships or corporations established for the exclusive benefit of direct descendants of Heber J. Grant, direct descendants of donees of Heber J. Grant, or their spouses and in which such persons collectively exercise sole voting and dispositive power; the LDS Church or another tax-exempt religious or charitable institution as defined in section 501(c)(3) of the Internal Revenue Code, as amended, controlled by or under common control with the LDS Church; and natural persons who, at the time they receive an interest in applicant, are executive employees or former executive employees of applicant; and any portion of applicant which is not owned by or for the benefit of these categories of shareholders will be beneficially owned (as the term is used in section 3(c)(1) of the Act) by not more than 35 persons and will not have been publicly offered.

5. Applicant will limit the sale or other issuance of additional shares of common stock so that after such sale or other issuance applicant will be in compliance with the last preceding condition.

6. Applicant will obtain approval by the holders of a majority of the issued and outstanding shares of an amendment to applicant's articles of incorporation granting to applicant a

right of redemption in the event of a proposed sale or other transfer by any shareholder of shares in applicant, except in the case of a proposed sale or other transfer to direct descendants of Heber J. Grant and/or their spouses; direct descendants of donees of Heber J. Grant; family trusts, estates, partnerships or corporations established for the exclusive benefit of direct descendants of Heber J. Grant, direct descendants of donees of Heber J. Grant, or their spouses and in which such persons collectively exercise sole voting and dispositive power; the LDS Church or another tax-exempt religious or charitable institution as defined in section 501(c)(3) of the Internal Revenue Code, as amended, controlled by or under common control with the LDS Church; and natural persons who, at the time they receive an interest in applicant, are executive employees or former executive employees of applicant.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–2492 Filed 2–3–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 27596]

Proposed Restructuring of Air Traffic Control Services; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: In response to the recommendations of the National Performance Review and the 1993 National Airline Commission, the DOT is developing a proposal that could lead to restructuring FAA's air traffic control (ATC) services as a Government corporation. Before drafting the related enabling legislation for Congressional consideration, the FAA invites comments on various aspects of the corporation proposal. This notice announces a meeting at which the public is invited to discuss a proposed restructuring of ATC services.

DATES: The public meeting will be held on February 22, 1994, from 9 a.m. to 4 p.m. Written comments are also invited and must be received on or before February 22, 1994.

ADDRESS: The public meeting will be held in the FAA Auditorium (room 311) at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Persons unable to attend the meeting may mail their comments in triplicate, to: Federal Aviation Administration, Office of Chief Counsel, Rules Docket (AGC–10), Docket No. 27596, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Questions concerning the subject matter or logistics of the meeting, or requests to present a statement at the meeting, should be directed to: Margo Inskeep, Corporation Assessment Ad Hoc Task Force (AOP–1–room 512), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9227; telefax (202) 267–9595.

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Attendance is open to the public but limited to the space available. Since access to the FAA building is controlled, all persons who plan to attend the meeting must notify Margo Inskeep (202) 267–9227 prior to February 22.

Requests from persons who wish to present oral statements at the public meeting should be received by the FAA no later than February 15, 1994. Such requests should be submitted to Margo Inskeep (as listed above in section titled **FOR FURTHER INFORMATION CONTACT**), and should include a written summary of oral remarks to be presented along with an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. In order to accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

Background

In response to the recommendations of both the National Performance Review and the National Commission to Ensure a Strong Competitive Airline Industry, an executive oversight committee, sponsored by the Secretary of Transportation, is developing a detailed plan to restructure FAA's air traffic control services as a Government corporation. The committee is developing a corporate structure that would streamline procurement, simplify the personnel process, provide funding stability, and ensure continuity of leadership among the objectives. The committee is comprised of senior officials from the Department of Transportation, Department of Defense, Office of Management and Budget, Council of Economic Advisers, National Economic Council, National Performance Review, and various other agencies. Alternative proposals are an FAA corporation and an air traffic control corporation. The oversight committee is soliciting suggestions and concerns regarding these proposals or any suggested alternatives.

Specific Issues for Public Comment

There are specific issues discussed in the following paragraphs on which the DOT's executive oversight committee seeks comment at the public meeting. Identification of these key issues is intended to help focus public comment on those areas which will be most useful in developing legislative proposals. However, comments at the meeting need not be limited to these issues.

Safety Issues, including: How a restructured air traffic control system would be organized, operated and maintained to best guarantee safety for the traveling public; the relationship between the proposed corporation and FAA with respect to safety; and any other specific safety issues that must be managed in the formulation of a corporate structure.

Budget and Financial Issues, including: The source of revenues for the ATC corporation; the pricing structure; the Government's role, if any, in ensuring sufficient revenues to cover the costs of the system; questions of financing from the Aviation Trust Fund; liability for ATC-related-accidents; and DOD funding issues.

Procurement Issues, including: The procurement authorities the corporation should have and whether elements of the Government's current procurement process (e.g., full and open competition, Brooks Act, etc.) should be retained.

Personnel Issues, including: The functions and placement of FAA employees, and which existing personnel rules and principles, if any, should apply to the corporation.

Oversight and Governance Issues, including: How an ATC corporation should be governed; how it should be accountable to the public and to Congress; who should oversee the ATC system; and what rulemaking and enforcement authorities should rest with the corporation and what should remain with the FAA.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who have requested in advance to present statements and on a space-available basis to all those non-presentors who notified FAA of their planned attendance prior to the day of the meeting. The meeting may adjourn early if scheduled speakers complete their statements in less time than currently is scheduled for the meeting.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement, if required by time constraints. The speaker will be notified if additional time is available.

(3) Every effort will be made to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled based on when their request was received in the FAA.

(4) Sign interpretation will be available at the meeting.

(5) For record purposes, it is requested that one copy of presentation and hand-out materials be provided to the presiding official by the presentor. In addition, materials may be distributed to the audience; however these copies must be provided by the presentor.

(6) The DOT executive oversight committee will review and consider the material presented at the meeting.

(7) Statements made by the DOT official presiding over the meeting are intended to facilitate discussion or to clarify issues. Any statement made during the meeting by the presiding official is not intended to be, and should not be construed as, a position of the DOT or FAA.

(8) The meeting is designed to elicit public views and more complete information on the issues discussed in this notice. Therefore, the meeting will be conducted in an informal and nonadversarial manner. No individual will be subject to cross-examination by any other participant.

(9) A recorder will be present to document the meeting.

Issued in Washington, DC, on February 1, 1994.

Edward M. Kelly,

Deputy Associate Administrator for Airway Facilities, Chairperson, Corporation Assessment Ad Hoc Task Force.

[FR Doc. 94–2556 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Chattanooga Metropolitan Airport, Chattanooga, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: To FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Chattanooga Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 7, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2851 Directors Cove, suite #3, Memphis, TN 38131–0301.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Don L. Jones, Chairman of the Chattanooga Metropolitan Airport Authority at the following address: Chattanooga Metropolitan Airport, P.O. Box 224444, 1001 Airport Road, Chattanooga, TN 37422.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Chattanooga Metropolitan Airport Authority under § 158.2 of part 158.

FOR FURTHER INFORMATION CONTACT: Memphis Airports District Office; ATTN: Mr. Paul Fruzzetti, Airports Planner; 2851 Directors Cove, suite #3; Memphis, Tennessee 38131–0301; Telephone (901) 544–3495. The application may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Chattanooga Metropolitan Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 26, 1994 the FAA determined that the application to impose and use the revenue from a PFC submitted by the Chattanooga Metropolitan Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 26, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1994.

Proposed charge expiration date: December 25, 2001.

Total estimated net PFC revenue: $7,822,048.

Brief description of proposed project(s):

Install Baggage Claim Devices
Install Loading Bridges
Install Security System
Miscellaneous Terminal Improvements
Reconstruct Passenger Terminal Complex
Master Plan and part 150 Noise Study Update
Modify/Replace Airfield Signage
Install Ramp Security System
PFC Administrative Costs
Widen/Strengthen Taxiway A

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi Operators—that class of Air Carriers operating under part 135 or part 298 of the Federal Aviation Regulations on an on-demand, non-scheduled basis, and not selling tickets to individual passengers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Chattanooga Metropolitan Airport Authority.

Issued in Atlanta, Georgia on January 27, 1994.

Troy R. Butler,

PFC Program Manager, Airports Division, Southern Region.

[FR Doc. 94–2560 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Fort Smith Regional Airport, Fort Smith, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Fort

Smith Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 7, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas, 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert Johnson, Manager, Fort Smith Regional Airport at the following address: Mr. Robert Johnson, Fort Smith Regional Airport, 5600 Airport Blvd., suite 200, Fort Smith, Arkansas, 72903.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas, 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Fort Smith Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 20, 1994, the FAA determined that the application to impose a PFC submitted by Fort Smith Regional Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 18, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1994.

Proposed charge expiration date: June 30, 2008.

Total estimated PFC revenue: $4,708,200.00.

Brief description of proposed project(s):

Projects to Impose PFC's

PFC Reimbursable Projects:
- Acquisition of Passenger Access Lift;
- Acquisition of Power Sweeper;
- Overlay and Mark Runway 7–25;
- Overlay Taxiway B;
- Overlay and Mark South End Runway 1–19;
- Airport Master Plan and Terminal Area Plan;
- Terminal Complex Development;
- Terminal Parking Apron;
- Terminal Automobile Parking Lot and Access Road;
- Rehabilitate Airfield Pavement;
- Install Surface Condition Scanner Runway 7–25;
- Install Security Improvements;
- Purchase Maintenance/Snow Removal Equipment;
- Extend Runway 7–25 and Parallel Taxiway; and
- Remove Hangars at Terminal Area.

Proposed class or classes of air carriers to be exempted from collecting PFC's. None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at Fort Smith Regional Airport.

Issued in Fort Worth, Texas on January 20, 1994.

Edward N. Agnew,

Acting Manager, Airports Division.

[FR Doc. 94–2558 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Change Two Projects From Impose Only To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at McCarran International Airport, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use PFC revenue for two previously approved impose only projects at McCarran International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). On January 19, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by Clark County was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 22, 1994.

DATES: Comments must be received on or before March 7, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA. 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert N. Broadbent, Director of Aviation, Clark County, Department of Aviation, P.O. Box 11005, Las Vegas, Nevada 89111. Comments from air carriers and foreign air carriers may be in the same form as provided to Clark County under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION:

Brief description of the proposed projects:

Project 929—Railroad Track Relocation—Total Project Cost $12,106,000, Project 2001—Runway 7L–25R Extension—Design and Construction—Total Project Cost $20,996,000. These projects are both previously approved impose only projects contained within an overall PFC package. They will not increase the total amount to be collected, the $3.00 level of collection, the charge effective or expiration dates or the classes of air carriers which are currently not required to collect PFCs at McCarran International Airport.

Availability of Application

Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents

germane to the application in person at Clark County.

Issued in Hawthorne, California, on January 24, 1994.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 94–2559 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Muscle Shoals Regional Airport, Muscle Shoals, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Muscle Shoals Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 7, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John B. Lehrter, Airport Director, Muscle Shoals Regional Airport Authority at the following address: Muscle Shoals Regional Airport, T. Ed Campbell Drive, Muscle Shoals, Alabama 35661–2016.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Muscle Shoals Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Principal Engineer, FAA Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Muscle Shoals Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 20, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Muscle Shoals Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove application, in whole or in part, no later than May 18, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1994.

Proposed charge expiration date: September 30, 1996.

Total estimated PFC revenue: $60,000.

Brief description of proposed project(s):

1—Purchase ARFF vehicle.
2—Complete construction of Taxiway B.
3—Install security fence.
4—Seal air carrier ramp.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Muscle Shoals Regional Airport Authority, located in the terminal building at the Muscle Shoals Regional Airport.

Issued in Atlanta, Georgia, on January 21, 1994.

Troy R. Butler,

PFC Program Manager, Airports Division, Southern Region.

[FR Doc. 94–2557 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Organizations, Functions, and Authority Delegations: Special Counsel and Director of Civil Penalty Adjudications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of delegation of authority.

SUMMARY: The FAA is giving notice of a new delegation of authority from the Administrator to the Special Counsel and Director for Civil Penalty Adjudications regarding civil penalty actions under 14 CFR part 13, subpart G. The delegation was set forth in a memorandum signed by the Administrator on October 22, 1993. The FAA is publishing the text of the delegation so that it is available to interested parties. This delegation of authority does not affect the delegation of authority by the Administrator to the Chief Counsel and the Assistant Chief Counsel for Litigation signed by the Administrator on October 27, 1992, and published in the **Federal Register** on December 9, 1992. 57 FR 58280; December 9, 1992.

FOR FURTHER INFORMATION CONTACT: Vicki S. Leemon, Manager, Adjudications Branch (AGC–710), Federal Aviation Administration, 701 Pennsylvania Avenue, NW., suite 925, Washington, DC 20004; telephone (202) 376–6470.

SUPPLEMENTARY INFORMATION: In August, 1993, the position of Special Counsel and Director of Civil Penalty Adjudications was created. The duties of the incumbent of that position include serving as an advisor to the FAA decisionmaker in appeals of initial decisions and orders by administrative law judges in civil penalty actions under 14 CFR part 13, subpart G. In these proceedings, the Administrator serves as the FAA decisionmaker.

By memorandum dated October 22, 1993, the Administrator delegated limited authority as FAA decisionmaker to the Special Counsel and Director of Civil Penalty Adjudications. The delegation of authority was designed to eliminate the need for the Administrator, acting in the capacity as FAA decisionmaker, to review and consider minor, procedural or unopposed matters.

The Administrator delegated similar authority as FAA decisionmaker to the Chief Counsel and the Assistant Chief Counsel for Litigation by memorandum dated October 27, 1992, and published in the **Federal Register** on December 9, 1992. 57 FR 58280; December 9, 1992. The delegation of authority to the Special Counsel and Director of Civil Penalty Adjudications does not supercede or otherwise affect that delegation to the Chief Counsel and the Assistant Chief Counsel for Litigation.

In the October 27, 1992, memorandum, the Administrator delegated the authority to issue orders staying, pending judicial review, orders of the FAA decisionmaker, and to consent to the entry of judicial stays regarding such orders. That delegation was unnecessary because a final order of the FAA decisionmaker shall not be considered an order assessing civil penalty if a petition for review is filed

in an appropriate U.S. Court of Appeals in a timely manner. See 14 CFR 13.16(b)(4) and 13.233(j)(2). Consequently, since there is no need for that particular delegation, the Administrator did not include that delegation in the memorandum dated October 22, 1993. Otherwise, the authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation is identical to the authority delegated to the new Special Counsel and Director of Civil Penalty Adjudications.

The text of the delegation of authority to the Special Counsel and Director of Civil Penalty Adjudications signed by the Administrator on October 22, 1993, in pertinent part, is as follows: Under 49 U.S.C. 322(b) and 14 CFR 13.202, I [David R. Hinson, Administrator] delegate to the Special Counsel and Director of Civil Penalty Adjudications the authority of the FAA decisionmaker in all civil penalty actions under 14 CFR part 13, subpart G, as follows:

a. To grant or deny extensions of time to file briefs, petitions for reconsideration, motions, and replies to petitions for reconsideration and motions; to grant or deny requests to file additional briefs; and to approve or disapprove other deviations from, or requests for changes in, procedural requirements;

b. To correct typographical, grammatical and similar errors in the FAA decisionmaker's orders, and to make editorial changes in those orders that do not involve substantive matters;

c. To issue orders dismissing appeals from initial decisions upon request of the appellant, or due to the withdrawal of the complaint; to grant or deny motions to dismiss appeals from initial decisions, or to issue orders *sua sponte*, for failure to file a timely appeal or failure to perfect an appeal;

d. To stay the effectiveness of decisions and orders pending reconsideration by the FAA decisionmaker;

e. To dismiss summarily petitions to reconsider or modify that are repetitious or frivolous;

f. To issue orders construing notices of appeal or other documents that meet the requirements for appeal briefs as appeal briefs, and to set a date for the filing of a reply brief.

This delegation of authority does not affect the delegation of authority to the Chief Counsel and the Assistant Chief Counsel for Litigation by memorandum dated October 27, 1992, signed by Thomas C. Richards, Administrator.

Issued in Washington, DC on January 26, 1994.

Daniel J. Peterson,

Special Counsel and Director of Civil Penalty Adjudications.

[FR Doc. 94–2554 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, a subject-matter index, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. These indexes and digests will increase the public's awareness of the Administrator's decisions and orders and will assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the subject matter index, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: Daniel J. Peterson, Special Counsel and Director of Civil Penalty Adjudications (AGC–700), Federal Aviation Administration, 701 Pennsylvania Avenue NW., suite 925, Washington, DC 20004: telephone (202) 376–6441.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR part 13, subpart G. The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*, in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative.

Since that first index was issued on October 26, 1990 (55 FR 45984; October 31, 1990), the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions as follows:

Dates of quarter	Federal Register publication
10/1/90–12/31/90	56 FR 44886; 2/6/91
1/1/91–3/31/91	56 FR 20250; 5/2/91
4/1/91–6/30/91	56 FR 31984; 7/12/91
7/1/91–9/30/91	56 FR 51735; 10/15/91
10/1/91–12/31/91	57 FR 2299; 1/21/92
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4/1/92–6/30/92	57 FR 32825; 7/23/92
7/1/92–9/30/92	57 FR 48255; 10/22/92
10/1/92–12/31/92	58 FR 5044; 1/19/93
1/1/93–3/31/93	58 FR 21199; 4/19/93
4/1/93–6/30/93	58 FR 42120; 8/6/93
7/1/93–9/30/93	58 FR 58218; 10/29/93

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order number index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be non-cumulative.

As noted at the beginning of the digests, the digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

The Administrator's final decisions and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The

addresses of the FAA legal offices are listed at the end of this notice.)

In addition, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided at the end of this notice.)

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93–10 (3/25/93)	Michael John Costello, CP89WP0351.
93–11 (3/25/93)	Thoral Merkley, CP92GL0254.
93–12 (3/25/93)	Carl P. Langton, CP92AL0417.
93–13 (3/25/93)	Vincent J. Medel, CP92SO0180.
93–14 (3/29/93)	Dan R. Fenske, CP92WP0370.
93–15 (4/22/93)	Mark Brown, CP92WP0036.
93–16 (4/30/93)	Million Air, CP92SO0376.
93–17 (6/10/93)	Burton D. Metcalf, CP91NM0066.
93–18 (6/10/93)	Westair Commuter, CP92NM0042.
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Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of December 31, 1993)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from October 1, 1993, to December 31, 1993. The FAA will publish noncumulative supplements to this compilation on a quarterly basis (e.g. April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Raymond B. Strohl

Order No. 93–28 (10/20/93)

Further Briefing Ordered. The parties are directed to provide a full procedural history of the case and to brief the following issues: (1) Whether the Administrator has jurisdiction; (2) whether the law judge has jurisdiction; (3) whether the order assessing civil penalty issued by Complainant is valid given that Respondent filed a timely request for hearing; and (4) whether the terms of any settlement agreement entered into by the parties eliminate the need for further proceedings. The parties have 30 days to file their additional briefs.

In the Matter of Mark Sweeney

Order No. 93–29 (10/20/93)

Failure to See and Avoid. The Administrator affirmed the law judge's decision finding that Respondent, the pilot of a float-equipped Cessna 206, failed to maintain vigilance so as to see and avoid another aircraft when he struck the other aircraft from the rear. Both aircrafts were on sightseeing tours for the same operator. Respondent knew that the other aircraft was directly ahead of his and that both aircraft were heading for the same destination. No weather or mechanical problems existed. Respondent should have changed his position in his seat or maneuvered his aircraft to see around any obstruction blocking his line of vision. Respondent created a collision hazard by operating so close to the other aircraft. He operated his aircraft in a careless or reckless manner.

Circumstantial Evidence. Complainant could use circumstantial evidence to sustain its burden of proof.

In the Matter of William S. Post

Order No. 93–90 (10/20/93)

Applicant's Personal Expenses Under the EAJA. The Administrator held that the applicant's own expenses incurred to attend the hearing in his case were not recoverable under the Equal Access to Justice Act (EAJA). Nothing in § 14.05 of the Federal Aviation Regulations, which discusses allowable attorney fees and expenses, would lead one to conclude that an applicant's personal expenses may be recovered. The expenses recoverable under the EAJA are those incurred by an "attorney, agent, or expert witness representing or appearing on behalf of the party."

In the Matter of Shane Thomas Allen

Order No. 93–31 (10/20/93)

Reconsideration Denied. The Administrator denied Respondent's petition for reconsideration of FAA Order No. 93–23 (July 22, 1993). Respondent failed to show that good cause existed to excuse his untimely appeal brief. The Administrator affirmed his prior dismissal of Respondent's appeal.

In the Matter of Raul Nunez

Order No. 93–32 (10/20/93)

Reconsideration Granted. The Administrator granted Respondent's petition for reconsideration of FAA Order No. 93–92 (March 24, 1993). The Administrator had dismissed Respondent's appeal for failure to file an appeal brief. Upon reexamination, the Administrator found that Respondent's notice of appeal contained sufficient information to comply with the requirements for an appeal brief. Respondent's notice of appeal was construed as an appeal brief. Respondent's notice of appeal was construed as an appeal brief. Respondent's appeal was reinstated. Complainant was given 35 days to file a reply brief.

In the Matter of HPH Aviation

Order No. 93–33 (11/18/93)

Withdrawal of Appeal. Respondent withdrew its notice of appeal. Respondent's appeal is dismissed.

In the Matter of Castle Aviation

Order No. 93–34 (11/23/93)

Dismissal of Appeal. Respondent failed to perfect its appeal by filing an appeal brief as required by 14 CFR 13.233(c). Respondent's appeal is dismissed.

In the Matter of Steel City Aviation

Order No. 93–35 (11/23/93)

Dismissal of Appeal. Respondent failed to perfect its appeal by filing an appeal brief as required by 14 CFR 13.233(c). Respondent's appeal is dismissed.

In the Matter of Valley Air Services, Inc.

Order No. 93–36 (12/21/93)

Allegation of Operating Without Timely Overhaul of Governors. The complaint alleged that Valley Air operated its aircraft when the propeller governors had not been overhauled as required. Respondent's defense was that it had obtained a letter from the manufacturer extending the time between overhaul, and that this letter was a valid "maintenance instruction" within the meaning of 14 CFR 135.421(b).

"Maintenance Instruction" Defined. Maintenance instructions are general instructions that manufacturers are required to furnish to all operators, and that operators in turn are required to obey. Maintenance instructions do not include either "instructions" issued to particular operators, or optional "instructions."

Manfuacturer's Letter of Extension Was Not A Maintenance Instruction. Contrary to the law judge's holding, the manufacturer's extension of time for overhaul of the propeller governors was not a "maintenance instruction" within the meaning of Section 135.421. Woodward's extension of the time between overhaul was issued to Respondent alone—not to all operators. Also, the effect of the letter was to *relieve* Respondent of the requirement to overhaul the governors at 1,800 hours.

Extension Was Not Retroactive. Even if the extension letter were found to be a maintenance instruction, Respondent had already flown the aircraft 103.5 hours past the 1,800-hour limit when the inspector discovered the problem. Thus, the rules had already been violated when Respondent sought and obtained the extension letter from Woodward. Although Woodward may have intended its purported extension to be retroactive, it simply did not have the power to exonerate Respondent from a pre-existing violation of the rules.

Sanction. In light of all the circumstances of this case, including the uncontroverted evidence in the record that Respondent had already flown its aircraft 103.5 hours past the 1,800-hour limit before the manufacturer was even contacted, a sanction of $4,000 is appropriate.

In the Matter of Airspect, Inc.

Order No. 93-37 (12/21/93)

Interlocutory Appeal of Right Dismissed. Complainant's interlocutory appeal of the law judge's decision to accept Respondent's late-filed answer did not meet the requirements for an interlocutory appeal of right pursuant to 14 CFR 13.219(c). The law judge's decision did not violate 14 CFR 13.205(b) which provides a basis for an interlocutory appeals of right when a law judge exceeds his powers. The Administrator dismissed Complainant's interlocutory appeal of right, and remanded the case of the law judge for further proceedings.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

In June, 1991, as a public service, the FAA began releasing to commercial publishers the Administrator's decisions and orders in civil penalty cases. The goal was to make these decisions and orders more accessible to the public. The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications.

Avlex, published by Aviation Daily, 1156 15th Street, NW., Washington, DC 20005, (202) 822–4669; and

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (301) 798–1098.

Federal Aviation Decisions, Clark Boardman Callaghan, 50 Broad Street East, Rochester, NY 14694, (716) 546–1490.

The Decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896–0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040 (806) 733–2483, is placing the decisions on CD-ROM. Finally, the Administrator's decisions and orders in civil penalty cases are available on the following computer databases: Compuserve; Fedix; and Genie.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur, Oklahoma City, OK 73125; (405) 680–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430; (718) 553–1035.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Burlington, MA 01803; (617) 273–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 18000 Pacific Highway South, Seattle, WA 98188; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 3400 Norman Berry Drive, East Point, GA 30344; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 4400 Blue Mound Road, Fort Worth, TX 76193; (817) 624–5707.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, CA 90261; (310) 297–1270.

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

Daniel J. Peterson,

Special Counsel and Director of Civil Penalty Adjudications.

[FR Doc. 94–2555 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Fremont, Milpitas, California

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 will be prepared for a proposed highway project in Alameda and Santa Clara Counties, California.

FOR FURTHER INFORMATION CONTACT: John Schultz, Chief, District Operations A, Federal Highway Administration, 980 9th Street—suite 400, Sacramento, California 95814–2724. Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (CALTRANS), will prepare an Environmental Impact Statement (EIS) on a proposal to replace the Interstate 880 (I–880)/Dixon Landing Road Interchange located in the cities of Fremont and Milpitas, Alameda, and Santa Clara Counties, respectively, California. The existing 9.8m (32 ft.) wide 2-lane overcrossing will be replaced with a structure 34.1m (112 ft.) in width. The proposed 34.1m (112 ft.) wide structure will accommodate six (6) 3.7m (12 ft.) travel lanes (3 in each direction), a 4m (13 ft.) weaving lane, two 1.5m (5 ft.) wide one-way bike lanes and a 1.2m (4 ft.) median.

In the northbound direction of the I–880, the existing hook off-ramp to California Circle, the loop off-ramp to Dixon Landing Road, and the diagonal on-ramp from Dixon Landing Road will be modified such that there will be one off-ramp and one on-ramp from I–880 to a collector distributor (CD) road. From the CD road there will be a hook off-ramp to California Circle, a hook on-ramp from California Circle, a loop off-ramp to Dixon Landing Road, and a diagonal on-ramp from Dixon Landing Road.

In the southbound direction of I–880, the existing diagonal off-ramp will be realigned and widened. The existing hook on-ramp will be replaced with a loop on-ramp. A new existing diagonal on-ramp will be added south of the proposed overcrossing. The proposed interchange improvement will accommodate the future widening of I–880 under consideration by CALTRANS. The only alternative to the proposal under consideration is taking no action (No Project). Design refinements will be considered to avoid or minimize environmental effects.

Project implementation would involve potential impact to wetlands and one endangered species. The existing and proposed rights-of-way for the Dixon Landing Interchange project contain approximately 5.1ha (12.5 acres) of U.S. Army Corps of Engineers jurisdictional seasonal wetlands. Since there is a species of concern (Salt Marsh) harvest Mouse (*Reithrodontomys raviventris*), and other possible animals known to exist within the project existing and proposed rights-of-way, the proposed project will be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act.

The proposed improvements are considered necessary to improve existing traffic operations and safety within the Dixon Landing Road Interchange. The proposed improvements are also intended to provide for projected traffic demand resulting from planned growth in population and employment within the cities of Fremont and Milpitas. The proposed improvements would increase capacity of the overcrossing and maintain service levels within the Interchange at LOS "D" or better.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens and citizens who have previously expressed or are known to have interest in this proposal. A series of public information meetings will be held in Fremont and Milpitas between June and July in 1994. In addition, a public hearing will be held. Public notices indicating the time and place of the meetings and hearings will be published. The Draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: January 25, 1994.

John Schultz,

Chief, District Operations "A", Sacramento, California.

[FR Doc. 94–2483 Filed 2–3–94; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 26, 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 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0978.

Form Number: IRS Form 9066.

Type of Review: Revision.

Title: Generic IRS Customer Satisfaction Questionnaire (Short Form).

Description: The data collected will be used to get an indication of whether the IRS is providing satisfactory service to its customers, the taxpayers. This information will be used by IRS managers to determine if current programs and service are meeting program needs. The need for further evaluation of our service and programs will be indicated by this effort.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 250,000.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 12,500 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management

and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–2539 Filed 2–3–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

January 28, 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 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0038.

Form Number: ATF F 5030.6.

Type of Review: Extension.

Title: Authorization to Furnish Financial Information and Certificate of Compliance (Right to Financial Privacy of 1978).

Description: The Right to Financial Privacy Act of 1978 limits access to records held by financial institutions provides for certain procedures to gain access to the information. ATF F 5030.6 serves as both a customer authorization for ATF to receive information and as the required certification to the financial institution.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 500 hours.

OMB Number: 1512–0082.

Form Number: ATF F 5120.24 (1582–A).

Type of Review: Extension.

Title: Drawback on Wine Exported.

Description: When proprietors export wines that have been produced, packaged, manufactured, or bottled in the U.S., they file a claim for drawback on refund for the taxes that have already when paid on the revenue and prevent fraudulent claims.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 900.

Estimated Burden Hours Per Respondent: 1 hour, 7 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,025 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–2540 Filed 2–3–94; 8:45 am]

BILLING CODE 4810–31–P

Public Information Collection Requirements Submitted to OMB for Review

January 28, 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 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0065.

Form Number: IRS Forms 4070, 4070A, 4070PR and 4070A–PR.

Type of Review: Extension.

Title: Employee's Report of Tips to Employer (4070); Employee's Daily Record of Tips (4070A); Registro Diario de Propinas del Empleado (4070PR); and Informe al Patrono de Propinas Recibidas por el Empleado (4070A–PR).

Description: Employees who receive at least $20 a month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of the tips they receive. Forms 4070A and 4070A–PR are used for this purpose.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 540,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	4070	4070A	4070PR	4070A–PR
Recordkeeping	7 min.	3 hr. 23 min.	7 min.	3 hr. 23 min.
Learning about the law or the form	2 min.	2 min.	2 min.	2 min.
Preparing the form	8 min.	56 min.	8 min.	46 min.
Copying and Providing	10 min.	14 min.	10 min.	

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 32,527,200 hours.

OMB Number: 1545–0166.

Form Number: IRS Form 4255.

Type of Review: Extension.

Title: Recapture of Investment Credit.

Description: Internal Revenue Code (IRC) 50(a) and Regs. section 1.47 require that taxpayers attach a statement to their return showing the computation of the recapture tax when investment credit property is disposed of before the end of the recapture period used in the original computation of the investment credit.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 80,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 hr., 53 min.

Learning about the law or the form—2 hr., 23 min.

Preparing and sending the form to the IRS—2 hr., 37 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,031,200 hours.

OMB Number: 1545–0736.

Regulation ID Number: LR–274–81 Final.

Type of Review: Extension.

Title: Accounting for Long-term Contracts.

Description: These recordkeeping requirements are necessary to determine whether the taxpayer properly allocates indirect contract costs to extended period long-term contracts under the regulations. The recordkeeping requirement is effective for taxable years beginning after 1982. The information will be used to verify the taxpayer's allocations of some indirect costs.

Respondents: Businesses or other for-profit, Small businesses and organizations.

Estimated Number of Recordkeepers: 1,000.

Estimated Burden Hours Per Recordkeeper: 10 hr., 1 min.

Frequency of Response: Annually.

Estimated Total Recordkeeping Burden: 10,010 hours.

OMB Number: 1545–1218.

Regulation ID Number: CO–132–87 NPRM.

Type of Review: Extension.

Title: Regulations Under Section 1502 of the Internal Revenue Code of 1986; Sections 382 and 383 With Respect to Consolidated Groups.

Description: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. Section 382 limits the amount of income that can be offset by loss carryovers after an ownership change. These regulations provide rules for applying section 382 to groups filing consolidated returns.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually, Other (changes in group membership).

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1237.

Regulation ID Number: CO–078–90 NPRM.

Type of Review: Extension.

Title: Regulations Under Section 1502 of the Internal Revenue Code of 1986; Limitations on the Use of Certain Losses and Deductions.

Description: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. These proposed regulations amend the current regulations regarding the use of certain losses and deductions by such corporations.

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–2541 Filed 2–3–94; 8:45 am]

BILLING CODE 4830–01–P

Office of Thrift Supervision

[AC 2: OTS No. 4247]

American Savings, FSB, Muster, IN; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 11, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of American Savings, FSB, Muster, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, suite 800, Chicago, Illinois 60601–4360.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2510 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 8: OTS No. 4282]

Bay Ridge Federal Savings Bank, Brooklyn, NY; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 25, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Bay Ridge Federal Savings Bank, Brooklyn, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2516 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 11: OTS No. 2639]

First Missouri Federal Savings and Loan Association, Brookfield, MO; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 31, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Missouri Federal Savings and Loan Association, Brookfield, Missouri, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Fwy., suite 600, Irving, Texas 75039.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2519 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 4: OTS No. 0189]

Great Financial Federal, Louisville, KY; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 14, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Great Financial Federal, Louisville, Kentucky, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift

Supervision, 111 Wacker Drive, suite 800, Chicago, Illinois 60601–4360.

Dated: January 31, 1994.

By the Office of Thrift Supervision

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2512 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 1: OTS No. 2013]

Landmark Federal Savings Association, Dodge City, KS; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 4, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Landmark Federal Savings Association, Dodge City, Kansas, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Fwy., suite 600, Irving, Texas 75039.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2509 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 3: OTS No. 1145]

Lexington Federal Savings Bank, Lexington, KY; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 14, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Lexington Federal Savings Bank, Lexington, Kentucky, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2511 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 10: OTS No. 6149]

Mid-Central Federal Savings Bank, Wadena, MN; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 31, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Mid-Central Federal Savings Bank, Wadena, Minnesota, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Fwy., suite 600, Irving, Texas 75039.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2518 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 5: OTS No. 1004]

Mishawaka Federal Savings, Mishawaka, IN; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 14, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Mishawaka Federal Savings, Mishawaka, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, suite 800, Chicago, Illinois 60601–4360.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2513 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 9: OTS No. 0214]

Permanent Federal Savings Bank, Evansville, IN; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 25, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Permanent Federal Savings Bank, Evansville, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, suite 800, Chicago, Illinois 60611–4360.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2517 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 7: OTS No. 5201]

Pioneer Savings and Loan Association, F.A., Roslyn, NY; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 24, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Pioneer Savings and Loan Association, F.A., Roslyn, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2515 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

[AC 6: OTS No. 3103]

Reliance Federal Savings Bank, Garden City, NY; Final Action; Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that on January 14, 1994, the Deputy Assistant Director, Corporate Activities Division of the Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Reliance Federal Savings Bank, Garden City, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: January 31, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–2514 Filed 2–3–94; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (59 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Hannibal to St. Augustine: Ancient Art from the Musee du Louvre" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Michael C. Carlos Museum of Art at Emory University, Atlanta, Georgia, from on or about February 21, 1994 to on or about May 29, 1994; the Crocker Museum of Art, Sacramento, California, from on or about September 17, 1994, to on or about November 12, 1994; and the Milwaukee Museum of Art, Milwaukee, Wisconsin, from on or about December 2, 1994, to on or about February 5, 1995, is in the national interest.

Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: February 2, 1994.

Les Jin,

General Counsel.

[FR Doc. 94–2707 Filed 2–3–94; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul W. Manning of the Office of the General Counsel of USIA. The telephone number is 202/619–6827, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 58, No. 24
Friday, February 4, 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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the February 10, 1994 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Thursday, February 17, 1994. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: February 1, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–2661 Filed 2–2–94; 10:30 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:37 p.m. on Tuesday, February 1, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Recommendations regarding the liquidation of depository institutions' assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re:
The Howard Savings Bank, Livingston, New Jersey, Case No. 505–8532–93–BOD

Memorandum re:
Crossland Savings, FSB, New York City (Brooklyn), New York
and
First New York Bank for Business, New York City (Manhattan), New York, Case No. 505–08093–93–BOD

Matters relating to the Corporation's corporate and supervisory activities.

A personnel matter.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street NW., Washington, DC.

Dated: February 1, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Assistant Executive Secretary.

[FR Doc. 94–2692 Filed 2–2–94; 12:28 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Tuesday, February 8, 1994, to consider the following matters:

Summary Agenda:

No matters scheduled.

Discussion Agenda:

Memorandum and resolution re: Interim rule with respect to notice of mutual-to-stock conversions which would (1) require FDIC-insured State-chartered savings banks that are not members of the Federal Reserve System (State savings banks) that have applied to their applicable State banking regulator to convert from the mutual to stock form of ownership to provide the Corporation with a notice of the proposed conversion and a copy of the application materials, and (2) require that State savings banks not finalize a mutual-to-stock conversion until they receive a notice of the Corporation's intention not to object to the proposed conversion.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3132 (Voice); (202) 942–3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Acting Executive Secretary of the Corporation, at (202) 898–6757.

Dated: February 1, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–2649 Filed 2–1–94; 4:35 pm]

BILLING CODE 6714–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–94–03]

TIME AND DATES: February 9, 1994 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–677 (Preliminary) (Coumarin from China)—briefing and vote.
5. Inv. Nos. 731–TA–678–682 (Preliminary) (Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain)—briefing and vote.
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Issued: February 1, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–2676 Filed 2–2–94; 11:27 am]

BILLING CODE 7020–02–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, February 9, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed expansion of operating hours for the Fedwire Funds and Securities Transfer Services. (Proposed earlier for public comment; Docket No. R–0778)
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 2, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–2773 Filed 2–2–94; 3:58 pm]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, February 9, 1994, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 2, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–2775 Filed 2–2–94; 3:58 pm]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 4138, January 28, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12 noon, Wednesday, February 2, 1994.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed acquisition of computer equipment within the Federal Reserve System. (This item was originally announced for a closed meeting on January 31, 1994.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 2, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–2775 Filed 2–2–94; 3:58 pm]

BILLING CODE 6210–01–P

Corrections

Federal Register
Vol. 59, No. 24
Friday, February 4, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 525 and 552

[Acquisition Circular AC-93-1]

General Services Administration Acquisition Regulation; Implementation of the Memorandum of Understanding Between the United States of America and the European Economic Community (EC) on Government Procurement and the North American Free Trade Agreement

Correction

In rule document 93-31966 beginning on page 69243 in the issue of Thursday, December 30, 1993 make the following corrections:

525.203 [Corrected]

1. On page 69243, in the third column, in 525.203(a), in the ninth line "reasonable" is corrected to read "unreasonable".

2. On page 69246, in the second column, in the file line at the end of the document, "FR Doc. 93-31996" should read "FR Doc. 93-31966".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-93-3679; FR-3329-N-01]

Funding Availability (NOFA) for FY 1994 Section 8 Rental Voucher Set-Aside for Homeless Persons With Disabilities

Correction

In notice document 94-2092 beginning on page 4758 in the issue of Tuesday, February 1, 1994, make the following correction:

On page 4759, in the first column, in the table, in the entry for Denver—VIII, the Dollars in the second column should read "1,944,985" and the Units in the third column should read "84".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 621 and 655

RIN 1205-AA84

Wage and Hour Division

29 CFR Part 504

RIN 1215-AA55

Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses

Correction

In rule document 94-17 beginning on page 874 in the issue of Thursday, January 6, 1994, make the following correction:

On page 874, in the first column, in the **EFFECTIVE DATE**, "February 7, 1993" should read "February 7, 1994".

BILLING CODE 1505-01-D

federal register

Friday
February 4, 1994

Part II

Department of Labor

Employment and Training Administration
20 CFR Part 655

Wage and Hour Division
29 CFR Part 504
Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses; Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AA84

Wage and Hour Division

29 CFR Part 504

RIN 1215–AA55

Attestations by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCIES: Employment and Training Administration and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule and amendment and announcement of effective date.

SUMMARY: On January 6, 1994, the Employment and Training Administration (ETA) and the Wage and Hour Division of the Employment Standards Administration of the Department of Labor published final regulations governing the filing and enforcement of attestations by health care facilities seeking to use the services of nonimmigrant aliens as registered nurses under H–1A visas. At that time, ETA submitted the information collection requirements to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. This document amends the January 6, 1994, Federal Register document to display the OMB control numbers and announces the effective date for the sections containing information collection requirements for which OMB approval has been received.

DATES: The revision of 20 CFR 655.310 and 655.350 and 29 CFR 504.310 and 504.350 published January 6, 1994 (59 FR 874) and these amendments are effective February 7, 1994. Form ETA 9029, published as an appendix to this document, may be used on or after February 7, 1994. The prior version of Form ETA 9029, published at 55 FR 50500, 50527–50531 (December 6, 1990), will be accepted for filing through March 7, 1994.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart D, and 29 CFR part 504, subpart D, contact Mr. Denis M. Gruskin, Senior Specialist, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N–4456, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–219–4369 (this is not a toll-free number).

On 20 CFR part 655, subpart E, and 29 CFR part 504, subpart E, contact Mr. Solomon Sugarman, Chief, Branch of Farm Labor and Immigration Programs, Wage and Hour Division, Employment Standards Administration, Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act's (PRA) provisions on information collection are triggered when a health care facility (facility) files an attestation with the Department of Labor (DOL or Department), as a condition for being able to use the services of a nonimmigrant registered nurse entering the United States on an H–1A visa. The attestation is a prerequisite to filing a petition with the Immigration and Naturalization Service (INS) for H–1A nurses. Facilities are required to file attestations with DOL attesting to certain conditions and to steps taken to recruit and retain U.S. nurses in order to reduce dependence on nonimmigrant alien nurses.

The attestations, required under sections 101(a)(15)(h)(i)(a) and 212(m) of the Immigration and Nationality Act, pertain to substantial disruption in the delivery of health care services, absence of adverse effect on wages and working conditions of similarly employed registered nurses, payment of wages to nonimmigrant nurses employed by the facility at wage rates paid to other registered nurses similarly employed by the facility, taking timely and significant steps designed to recruit and retain U.S. nurses to reduce dependence on nonimmigrant nurses, absence of a strike or lockout, and giving appropriate notice of filing. Attestation is made on Form ETA 9029, a copy of which is published as an appendix to this document, but which will not be published in the CFR.

The attestation process is administered by the Employment and Training Administration (ETA) of DOL, while complaints and investigations regarding the attestations are handled by the Wage and Hour Division of DOL's Employment Standards Administration (ESA).

Public reporting burden for collection of information the first year a facility submits an attestation is estimated to average 8 to 10 hours for searching existing information/data sources and gathering and compiling the data at the facility the first year that a facility submits an attestation. In the second and subsequent years, the reporting burden, based on operating experience, is expected to average about 3 hours.

The Office of Management and Budget (OMB) reviewed the collection of information requirements for facilities filing attestations as a condition to petition the INS for H–1A nurses in accordance with the PRA, 44 U.S.C. 3501 *et seq.*, and 5 CFR part 1320. OMB approved all information requirements contained in 20 CFR part 655, subpart D, and 29 CFR part 504, subpart D, under OMB clearance number 1205–0305.

On January 31, 1994, OMB approved the information collection provisions until September 1995.

Authority and Signature

8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

Signed at Washington, DC, January 31, 1994.

Doug Ross,

Assistant Secretary for Employment and Training.

John R. Fraser,

Acting Assistant Secretary for Employment Standards.

Title 20, part 655, subpart D, and title 29, part 504, subpart D, of the Code of Federal Regulations are hereby amended as follows:

PART 655—[AMENDED]

1. The authority citation for 20 CFR part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H) (i) and (ii), 1182 (m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); and 8 CFR 214.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note).

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

2. In 20 CFR 655.310, by adding a parenthetical, as follows, at the end of the regulatory text:

§ 655.310 Attestations

* * * * *

(Approved by the Office of Management and Budget under control number 1205–0305.)

3. In 20 CFR 655.360, by adding a parenthetical, as follows, at the end of the regulatory text:

§ 655.350 Public Access

* * * * *

(Approved by the Office of Management and Budget under control number 1205–0305.)

PART 504—[AMENDED]

4. The authority citation for title 29 CFR part 504, subparts D and E, continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m) and Pub. L. 101–238, sec 3(c)(1), 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

5. In 29 CFR 504.310, by adding a parenthetical, as follows, at the end of the regulatory text:

§ 504.310 Attestations

* * * * *

(Approved by the Office of Management and Budget under control number 1205–0305.)

6. In 29 CFR 504.350, by adding a parenthetical, as follows, at the end of the regulatory text:

§ 504.350 Public Access

* * * * *

(Approved by the Office of Management and Budget under control number 1205–0305.)

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—Form ETA 9029

Health Care Facility Attestation (H-1A)

U.S. Department of Labor
Employment and Training Administration
U.S. Employment Service

1. Name of Facility (Full Legal Name of Organization)	3. Telephone (Area Code and Number)	OMB Approval No.: 1205-0305
2. Address (Number, Street, City, State and ZIP Code)	4. Facility's Federal Employer I.D. Number	
	5. Nature of Facility's Business Activity (Hospital, Nursing Home, etc)	
	6. Name of Chief Executive Officer	
	6a. Contact Person & Telephone Number	

7. KIND OF FACILITY: (check appropriate item)

☐ a. Facility (hospital, nursing home, clinic, household, etc.) intending to petition for H-1A nurses.
☐ b. Nurse contractor intending to petition for H-1A nurses.
☐ c. Facility intending to use H-1A nurses through a contractor only (check appropriate item; item 8.c. not applicable if item 7.c. is checked):
- ☐ (i) For no more than 15 workdays in any 3-month period to meet temporary emergency needs or other good cause on a temporary basis. (Waivers may be requested in writing for items 8.a., 8.b., and 8.d.)
- ☐ (ii) For more than 15 but no more than 60 workdays in any 3-month period to meet temporary emergency needs or for other good cause on a temporary basis. (Waivers may be requested in writing for items 8.a.(ii), and 8.d.)
- ☐ (iii) For more than 60 workdays in any 3-month period due to a bona fide medical emergency. (Explanatory statement required; waiver may be requested in writing for item 8.d.)
- ☐ (iv) None of the above.

8. FACILITY ATTESTATION: (Applicable in its entirety if item 7.a. or item 7.b. is checked. Item 8.g. required if item 7.b. is checked.)

☐ a. Lay offs and Substantial Disruption
- ☐ (i) This facility has not laid off any registered staff nurses within the past year; and this facility will not replace laid off nonstaff nurses with H-1A nurses either through promotion or otherwise for a period of 1 year from the lay off. (No explanatory statement required.)
- ☐ (ii) Through no fault of this facility, there would be a substantial disruption in the delivery of health care services of the facility without the services of H-1A nurses, as demonstrated by (check at least one item):
  - ☐ Current nurse vacancy rate of 7% or more. Vacancy rate is ____ %. (No explanatory statement required.)
  - ☐ Current unutilized bed rate of 7% or more. Unutilized bed rate is ____ %. (No explanatory statement required.)
  - ☐ Past elimination/curtailment of essential health care services. (Explanatory statement required.)
  - ☐ Inability to implement established plans for needed new health care services. (Explanatory statement required.)
  - ☐ Other. (Explanatory statement required.)

☐ b. The employment of H-1A nurses will not adversely affect the wages and working conditions of registered nurses similarly employed. This facility has obtained a prevailing wage determination from the State Employment Security Agency (SESA) and is paying both U.S. and H-1A nurses at least the prevailing wage for the geographic area unless wages for registered nurses at this facility are the result of a collective bargaining agreement. (No explanatory statement required.)

(NOTE: 8. FACILITY ATTESTATION CONTINUES ON THE BACK OF THIS FORM.)

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this attestation is accepted for filing

on _____ (date) and will be valid through _____ (date 12 months from the date it is accepted for filing).

Signature of Authorized DOL Official

ETA Case No.

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of an attestation accepted for filing.

Public reporting burden for this collection of information is estimated to average 9 hours, 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of IRM Policy, Department of Labor, Room N-1301, 200 Constitution Avenue, N.W., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1205-0305), Washington, DC 20503.

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES

ETA 9029
Rev. Jan. 1994

(8. FACILITY ATTESTATION CONTINUATION)

☐ c. H-1A nurses employed by the facility will be paid the same wage rate as other registered nurses similarly employed by this facility. (No explanatory statement required; this item not applicable if item 7.c. is checked.)

☐ d. Recruitment and Retention of Registered Nurses (Check either 8.d.(I) or 8.d.(II).)

☐ (I) This facility is subject to an approved State plan for the recruitment and retention of nurses developed under the provisions of the Immigration Nursing Relief Act of 1989. (If checked, skip item 8.d.(ii), explanatory statement required.)

☐ (II) This facility has taken and is taking timely and significant steps designed to recruit and retain registered nurses who are United States citizens or immigrants who are authorized to perform nursing services in order to remove as quickly as reasonably possible our dependence on nonimmigrant nurses. Timely and significant steps being taken by this facility include (check at least two items and include explanatory statement for each):

- ☐ Operating a training program at no cost for registered nurses at the facility or providing for 100% tuition in a training program for registered nurses elsewhere.
- ☐ Paying 100% of the cost of career development programs and other methods of facilitating health care workers to become registered nurses.
- ☐ Paying registered nurses at a rate at least 5% higher than the prevailing wage as determined by the SESA.
- ☐ Providing adequate support services to free registered nurses from administrative and other nonnursing duties.
- ☐ Providing reasonable opportunities for meaningful salary advancement by registered nurses based on merit, education, and specialty or based on length of service.
- ☐ Other Step of comparable timeliness and significance.
- ☐ Only one timely and significant step has been and is being taken by this facility because taking a second step is unreasonable.

☐ (III) Alternative criteria for each step for second and succeeding years. (Check appropriate items and attach explanatory statement; see instructions.)

- ☐ This facility does not have a valid attestation on file with the Department of Labor. This facility will, within the next year, reduce the number of nonimmigrant nurses it utilizes by at least 10% without reducing the quality or quantity of services provided.
- ☐ This facility has a valid attestation on file with the Department of Labor. This facility will, within the next year, reduce the number of nonimmigrant nurses it utilizes by at least 10% without reducing the quality or quantity of services provided.
- ☐ Pursuant to its prior attestation, this facility has reduced the number of nonimmigrants it utilizes by 10% within one year of the date of such prior attestation, without reducing the quantity of services provided.

☐ e. No Strike or Lockout

There is not a strike or lockout in the course of a labor dispute, and the employment of H-1A nurses is not intended or designed to influence an election for a bargaining representative for registered nurses of this facility. (No explanatory statement required.)

☐ f. Notice and Public Examination

A copy of this attestation and supporting documentation are available at this facility for examination by interested parties. Copies of all visa petitions filed by the facility with INS for H-1A nurses will also be available for examination at this facility and will also be sent to the ETA National Office. (Check only one item; no explanatory statement required.)

☐ (i) As of this date, notice of this filing has been provided to the bargaining representative of the registered nurses at this facility; or

☐ (ii) Where there is no such bargaining representative, notice of this filing has been provided as of this date to registered nurses at this facility through posting in conspicuous locations.

☐ g. **FOR NURSE CONTRACTORS ONLY:** H-1A nurses shall be referred only to facilities which themselves have valid and current attestations; this employer maintains copies of the valid attestation (Form ETA 9029) from each facility where its H-1A nurses are working. (No explanatory statement required.).

9. DECLARATION OF FACILITY:

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form is true and accompanying documentation is true and correct. In addition, I declare that I will comply with the Department of Labor regulations governing this program and, in particular, that I will make this attestation, supporting documentation, and other records, files and documents available to officials of the Department of Labor, upon such officials request, during any investigation under this attestation or the Immigration and Nationality Act.

Signature of Chief Executive Officer
(or such officer's agent or designee and title)

Date

INSTRUCTIONS FOR COMPLETING FORM ETA 9029

HEALTH CARE FACILITY ATTESTATION (H-1A)

IMPORTANT: READ CAREFULLY BEFORE COMPLETING FORM

Submit an original and two copies of Form ETA 9029 and explanatory statements attached to all copies to the appropriate ETA regional office listed at the end of these instructions.

To knowingly furnish any false information in the preparation of this form and any explanatory statements thereto, or to aid, abet or counsel another to do so is a felony, punishable by $10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Other penalties apply as well to fraud and misuse of this immigration document (18 U.S.C. 1546 and 1621).

Print legibly in ink or use a typewriter. Sign and date one form in original signature. Citations below to "regulations" are citations to the identical provisions of 20 CFR Part 655, Subparts D and E, and 29 CFR Part 504, Subparts D and E.

Item 1. Name of Facility. Enter full legal name of business, firm or organization, or, if an individual, enter name used for legal purposes on documents.

Item 2. Address of Facility. Self explanatory.

Item 3. Telephone Number. For private households, enter a business and home telephone number when all adults are employed.

Item 4. Facility's Federal Employer I.D. Number. Enter the facility's federal employer identification number assigned by the Internal Revenue Service.

Item 5. Nature of Facility's Business Activity. Enter a brief, non-technical description, e.g., acute care, long-term care, nursing contractor, clinic and private physician.

Item 6. Name of Chief Executive Officer. Self explanatory.

Item 6.a. Contact Person and Telephone Number. Enter the name and telephone number of the person who has direct knowledge of, and can be contacted about, this attestation.

Item 7. Kind of Facility. A facility intending to use H-1A nurses through a contractor only must check the applicable box under Item 7.c. and may request, in writing on an attached sheet, a waiver of certain attestation elements (see § ___ .310(k) of the regulations). See instructions to Item 8. Waiver requests must include an estimate of the maximum number of workdays of H-1A contract nurses services the facility intends to use in any 3-month period. A workday consists of one H-1A contract nurse working for one normal shift in a day. Facilities may waive certain attestation elements when using H-1A nurses through a contractor.

A facility intending to use H-1A nurses through a contractor for no more than 15 workdays in any 3-month period to meet emergency needs on a temporary basis may request, in writing, a waiver of Item 8.a. (substantial disruption; lay offs), Item 8.b. (adverse effect), and Item 8.d. (timely and significant steps; or State plan).

A facility intending to use H-1A nurses through a contractor for no more than 60 workdays in any 3-month period to meet temporary needs may request, in writing, a waiver of Item 8.a.(ii) (substantial disruption, but not lay offs under Item 8.a.(i)) and Item 8.d. (timely and significant steps; or State plan).

A facility intending to use H-1A nurses through a contractor for more than 60 workdays in any 3-month period may request, in writing, a waiver of Item 8.d. (timely and significant steps; or State plan) due to a bona fide medical emergency. As part of the request for waiver, the facility must attach an explanation documenting the bona fide medical emergency. "Bona fide medical emergency" means a situation in which the services of one or more H-1A contract nurses are necessary at a facility (which itself does not employ an H-1A nurse) to prevent death or serious impairment of health, and, because of the danger to life or death, nursing services for such situations are not elsewhere available in the geographic area.

Note: A facility requesting a waiver, in writing, of any attestation element (see § ___ .310(k) of the regulations) may obtain the services of an H-1A nurse by contracting with a nurse contractor but will not be eligible to itself employ any H-1A nurses under this attestation.

Item 8. Facility Attestation. In order to be eligible to hire nonimmigrant alien (H-1A) nurses, a facility must attest to the conditions listed in elements (a) through (f). The attestation cannot be accepted for filing if the required explanations or information supporting these elements are not attached to the Form ETA 9029. See § ___ .310(c) through (k) of the regulations for guidance on the supporting information that must be attached to the Form ETA 9029, and the specific requirements for each attested element and the documentation required to be maintained in one location at the facility.

Item 8.a.(i). No Lay Offs. Lay off means any involuntary separation of staff nurses without cause or prejudice. If nurses involved in direct patient care are separated from one specialized activity and offered retraining and retention at the same facility in another activity involving direct patient care at the same wage and status, but refuse, it is not a lay off. If the position is covered by a collective bargaining agreement, the agreement's definition of "Lay off" (if any) shall apply to that position. An explanatory statement is not required for this item.

Item 8.a.(ii). Substantial Disruption. A facility may attest that substantial disruption in the delivery of its health care services without nonimmigrant nurses is demonstrated by one or more of the specific circumstances listed. To make such an attestation, a facility must check the appropriate item(s) and attach brief explanatory statements (unless otherwise indicated on the Form ETA 9029) as to the circumstances and the nature and location of supporting documentation (see §§ ___ .310(d)(2)(i) and ___ .310(d)(3) of the regulations). If a facility finds that the listed circumstances are inapplicable or cannot be demonstrated, the facility may make an attestation of substantial disruption in the delivery of the facility's health care services by checking the "Other" item and attaching a clear explanation of the substantial disruption in specific health care services due to a shortage of nurses and why none of the four indicators listed can be met (see §§ ___ .310(d)(2)(ii) and ___ .310(d)(3) of the regulations).

Item 8.b. No Adverse Effect. A facility must attest that the employment of H-1A nurses will not adversely affect the wages and working conditions of registered nurses similarly employed. To make such an attestation, a facility must check item 8.b. By checking this item the facility is also attesting that, unless wages for registered nurses are covered by a collective bargaining agreement, it has obtained a prevailing wage determination from the State Employment Security Agency (SESA) and is paying both U.S. and H-1A nurses at least the prevailing wage for the geographic area. An explanatory statement is not required for this item. The facility must update the prevailing wage every year in which it employs H-1A nurses.

Item 8.c. Facility/Employer Wage. A facility may attest that H-1A nurses employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility. In other words, H-1A nurses cannot be paid less than similarly employed U.S. nurses, even if the wages paid U.S. nurses are higher than the prevailing wage level. To make such an attestation, a facility must check item 8.c. An explanatory statement is not required for this item.

Item 8.d. Recruitment and Retention of Registered Nurses. Check either item 8.d.(i), 8.d.(ii) or 8.d.(iii).

Item 8.d.(i). State Plan. A facility may attest that it is subject to an approved State plan for the recruitment and retention of nurses developed under the provisions of the Immigration Nursing Relief Act of 1989. To make such an attestation, a facility must check item 8.d.(i). Facilities are cautioned to contact the ETA National Office before checking this box since such plans must be approved by the ETA National Office.

Item 8.d.(ii). Timely and Significant Steps. A facility may attest that it has taken and is taking one or more of the listed timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses. To make such an attestation, a facility must check the appropriate items and for each attach an explanatory statement of how the facility's programs meet the requirements of the steps (see § ___ .310(g)(1)(i)(A) of the regulations). The five steps listed on the form are not an exclusive list of timely and significant steps which might qualify. Facilities are encouraged to be innovative in devising other steps, that are of comparable timeliness and significance. A facility choosing to take steps other than the five steps must make its attestation by checking the "Other" item and attaching an explanation of the nature and scope of the steps taken, how the steps are implemented, and how the steps meet the statutory test of timeliness and significance comparable to the listed steps. Examples of such other steps which may be considered to be of comparable timeliness and significance, depending upon all of the circumstances, are monetary incentives, special perquisites, work schedule options, and other training options. See § ___ .310(g)(1)(i)(B) of the regulations.

Nothing shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable. However, a facility shall make every effort to take at least two steps. To make an attestation that taking a second step would be unreasonable, a facility must check the last item under 8.d.(ii) and attach an explanatory statement of why such a step would be unreasonable. The taking of a second step may be considered unreasonable, if it would result in the facility's financial inability to continue providing the same quality and quantity of health care, or the provision of nursing services would otherwise by jeopardized by the taking of such a step. For any of the five listed steps not taken, the facility's explanation shall demonstrate, with respect to each of the listed steps not taken, why it would be unreasonable for the facility to take such step. Such facility also shall explain why it would be unreasonable for the facility to take any other steps designed to recruit and retain sufficient U.S. nurses to meet its staffing needs. See § ___ .310(g)(1)(ii).

Item 8.d.(iii). Alternative to criteria for each specific step after the first year of attestation. In order to avoid the necessity of complying with the specific criteria for each of the steps in the second and succeeding years, a facility may include with its Form ETA 9029, in addition to the actions taken under items 8.d.(ii), an attestation that it shall reduce the number of nonimmigrant alien (H-1 and H-1A) nurses it uses one year from the date of attestation by at least 10%. This shall be achieved without reducing the quality or quantity of services provided. If this goal is achieved (as demonstrated by documentation maintained by the facility and indicated in its subsequent year's Form ETA 9029), the facility's subsequent year's Form ETA 9029 may simply include an explanation demonstrating that this goal has been achieved and an attestation that it shall again reduce the number of nonimmigrant alien (H-1A) nurses it uses one year from the date of attestation by at least 10%.

Item 8.e. No Strike or Lockout. A facility must attest that there is not a strike or lockout in the course of a labor dispute, and that the employment of H-1A nurses is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility. To make such an attestation, a facility must check item 8.e. An explanatory statement is not required for this item.

Item 8.f. Notice and Public Examination. A facility must attest that, as of the date it files the attestation with the Department, it has provided notice of filing to the bargaining representative of registered nurses at the facility, or, if there is none, it has posted notice of filing in conspicuous locations. To make such an attestation, a facility must check either item 8.f.(i) or 8.f.(ii). An explanatory statement is not required for this item.

Item 8.g. Nurse Contractor Only. This item is only applicable if item 7.b. is checked. Nurse contractors must check item 8.g. to attest that they will refer H-1A nurses only to facilities which themselves have valid and current attestations on file. An explanatory statement is not required to this item.

Item 9. Declaration of Facility. One copy of this form must bear the original signature of the chief executive officer of the facility (or the chief executive officer's designee). By signing this form the chief executive officer is attesting to item 7. and item 8. on the Form ETA 9029 and to the accuracy of the information provided in the explanatory statements. False statements are subject to Federal criminal penalties, as stated above.

If the attestation bears the necessary entries of information and attached explanations for all items except item 7.c.(ii) "Bona Fide Medical Emergency", item 8.a.(ii) "Other," item 8.d.(ii) "Other," and item 8.d.(iii) unreasonableness of taking second step and if for those three items the Department of Labor determines after review that the attached explanations are sufficient to demonstrate compliance with the regulatory standards, the Department of Labor shall accept the attestation for filing and shall document such acceptance on the original and two copies of Form ETA 9029's submitted. The original of the attestation form indicating the Department's acceptance will be returned to the health care facility. The facility may then make a copy of the accepted attestation and file visa petitions with INS for H-1A nonimmigrant nurses in accordance with INS regulations. The facility shall include a copy of the accepted Form ETA 9029 with each visa petition filed with the Immigration and Naturalization Service.

Regional Office to which H-1A Attestations should be submitted:

The States of: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New York, New Jersey, Puerto Rico, and Virgin Islands, should submit Attestations to:

Regional Certifying Officer
U.S. Department of Labor/ETA
One Congress Street
10th Floor
Boston, Massachusetts 02114-2021

The States of: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, Illinois, Indiana, Michigan, Minnesota Ohio, Wisconsin, Iowa, Kansas, Missouri, Nebraska, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, should submit Attestations to:

Regional Certifying Officer
U.S. Department of Labor/ETA
230 South Dearborn Street
Room 628
Chicago, Illinois 60604

The States of: Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, should submit Attestations to:

Regional Certifying Officer
U.S. Department of Labor/ETA
Federal Building
Room 317
525 Griffin Street
Dallas, Texas 75202

The States of: Arizona, California, Guam, Hawaii, Nevada, Alaska, Idaho, Oregon, Washington, should submit Attestations to:

Regional Certifying Officer
U.S. Department of Labor/ETA
1111 Third Avenue
Suite 900
Seattle, Washington 98101-3212

A copy of this attestation, along with any explanatory statements and visa petitions, will be available for public inspection at the ETA National Office in Room N-4456, 200 Constitution Avenue, NW, Washington, D.C. 20210. The facility must submit a copy of an H-1A visa petition to the ETA national office at the same time that it is submitted to INS. The facility must also forward to the ETA national office a copy of the INS visa petition approval notice within 5 days after it is received. The address is:

Chief, Division of Foreign Labor Certifications
U.S. Employment Service
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue, N.W., Room N-4456
Washington, D.C. 20210

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Friday
February 4, 1994

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determinations of Endangered Status; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB88

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Tidewater Goby

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines endangered status pursuant to the provisions of the Endangered Species Act of 1973, as amended (Act), for the tidewater goby (*Eucyclogobius newberryi*). The tidewater goby is a fish that occurs in tidal streams associated with coastal wetlands in California. Since 1900, the tidewater goby has disappeared from nearly 50 percent of the coastal lagoons within its historic range, including 74 percent of the lagoons south of Morro Bay in central California. Only three populations currently exist south of Ventura County. This rule implements the protection and recovery provisions provided by the Act for the tidewater goby.

EFFECTIVE DATE: March 7, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ventura Field Office, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, suite 100, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Carl Benz at the above address (805/644–1766).

SUPPLEMENTARY INFORMATION:

Background

The tidewater goby (*Eucyclogobius newberryi*) is a small fish, rarely exceeding 50 millimeters (2 inches) standard length, and is characterized by large pectoral fins and a ventral sucker-like disk formed by the complete fusion of the pelvic fins. The tidewater goby was first described as a new species (*Gobius newberryi*) by Girard (1856), from specimens collected in the San Francisco Bay area. Based on Girard's specimens, Gill (1862) reassigned *Gobius newberryi* to the newly described genus *Eucyclogobius* (Eschmeyer 1990).

A member of the family Gobiidae, the tidewater goby is the only species in the genus *Eucyclogobius* and is almost unique among fishes along the Pacific coast of the United States in its restriction to waters with low salinities in California's coastal wetlands. All life stages of tidewater gobies are found at the upper end of lagoons in salinities less than 10 parts per thousand (ppt); however, gobies from two populations have been collected and reared in slightly higher salinities (Ramona Swenson, University of California, Berkeley, *in litt.* 1993). Although its closest relatives are marine species, the tidewater goby does not have a marine life history phase. This lack of a marine phase severely restricts the frequency of genetic exchange between coastal lagoon populations and significantly lowers the potential for natural recolonization of a locality once extirpated. Studies by Crabtree (1985) noted that some populations of gobies have differentiated genetically, indicating a long period of isolation. Tidewater gobies have a short lifespan and seem to be an annual species (Irwin and Stoltz 1984, Swift 1990), further restricting their potential to recolonize habitats from which they have been extirpated.

The tidewater goby occurs in loose aggregations of a few to several hundred individuals on the substrate in shallow water less than 1 meter (3 feet) deep (Swift *et al.* 1989), although gobies have been observed at depths of 1.5 to 2.3 meters (4.9 to 7.6 feet) (Dan Holland, University of Southwestern Louisiana, *in litt.* 1993). Peak nesting activities commence in late April through early May, when male gobies dig a vertical nesting burrow 10 to 20 centimeters (4 to 8 inches) deep in clean, coarse sand. Suitable water temperatures for nesting are 18 to 22°C (75.6 to 79.6°F) with salinities of 5 to 10 ppt. Male gobies remain in the burrows to guard eggs, which are hung from the ceiling and walls of the burrow until hatching. Larval gobies are found midwater around vegetation until they become benthic (Swift *et al.* 1989). Although the potential for year round spawning exists, it is probably unlikely because of seasonal low temperatures and disruptions of lagoons during winter storms. Ecological studies performed at two sites documented spawning occurring as early as the first week in January (Swenson *in litt.* 1993). Although usually associated with lagoons, the tidewater goby has been documented in ponded freshwater habitats as far as 8 kilometers (5 miles) upstream from San Antonio lagoon in Santa Barbara County (Irwin and Stoltz 1984).

The tidewater goby is discontinuously distributed throughout California, ranging from Tillas Slough (mouth of the Smith River) in Del Norte County south to Agua Hedionda Lagoon in San Diego County. Areas of precipitous coastlines that preclude the formation of lagoons at stream mouths have created three natural gaps in the distribution of the goby. Gobies are apparently absent from three sections of the coast between: (1) Humboldt Bay and Ten Mile River, (2) Point Arena and Salmon Creek, and (3) Monterey Bay and Arroyo del Oso.

Roughly 10 percent of the coastal lagoons presently containing populations of tidewater goby are under Federal ownership. Over 40 percent of the remaining populations are either entirely or partly owned and managed by the State of California. The remainder are privately owned.

Previous Federal Action

The tidewater goby was first classified by the Service as a category 2 species in 1982 (47 FR 58454). It was reclassified as a category 1 candidate in 1991 (56 FR 58804) based on status and threat information in Swift *et al.* (1989). Category 2 applies to taxa for which information now in the possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threats are not currently available to support a listing proposal. Category 1 applies to taxa for which the Service has on file substantial information on biological vulnerability and threats to support proposals to list them as endangered or threatened species.

On October 24, 1990, the Service received a petition from Dr. Camm Swift, Associate Curator of Fishes at the Los Angeles Museum of Natural History, to list the tidewater goby as endangered (Swift 1990). The petition, status surveys, and accompanying data describe the goby as threatened because of past and continuing losses of coastal and riparian habitats within its historic range. The Service's finding that this petition presented substantial information that the requested action may be warranted was published on March 22, 1991 (56 FR 12146). Following this finding, the Service initiated a status review on the tidewater goby.

Section 4(b)(3)(B) of the Endangered Species Act (Act), as amended in 1982, requires the Secretary to make a finding within 12 months of the date a petition is received as to whether or not the requested action is warranted. On December 11, 1992, the Service published a proposal to list the tidewater goby as an endangered species (57 FR 58770). The proposed rule

constituted the 12-month finding that the petitioned action was warranted.

Summary of Comments and Recommendations

In the December 11, 1992 proposed rule, all interested parties were requested to submit factual reports or information that might contribute to the development of a final determination. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in The Los Angeles Times on January 1, 1993, The San Francisco Sunday Examiner and Chronicle on January 3, 1993, and The San Diego Union-Tribune on February 4, 1993. The public comment period ended on February 9, 1993. A total of 548 comments were received. The Service received one letter from a Federal agency, three letters from State offices, and five from city or county agencies. Five hundred and ten of the comments were post cards from individuals urging support for the listing of the species. The Service received 29 letters from individuals and private organizations. Of those, only one expressed an opinion in opposition to listing the tidewater goby as endangered.

The National Park Service (Santa Monica Mountains National Recreation Area) stated support for the listing of the tidewater goby as endangered and suggested locations within the recreation area boundaries that may be candidates for reintroduction of the species. The National Park Service also sought assistance from the Service in determining potential habitat locations on lands not under public ownership that may be acquired under its land acquisition program.

Three California State agencies offered comments. The Topanga-Las Virgenes Resource Conservation District, a subdivision of State government, expressed full support for the listing of the goby. The California Coastal Commission stated, "The acute vulnerability of the tidewater goby to man-induced changes of estuarine habitat makes the development of comprehensive management strategies and plans, including development of recovery plans, for this species imperative." The California Department of Fish and Game submitted information pertaining to a project to reestablish a population of tidewater gobies on Waddell Creek Lagoon. The population was reintroduced in the fall of 1991 and subsequently sampled in November 1992. Gobies were reported from three sites in the lagoon. The Department will continue to obtain information on that population as it is surveyed.

Five letters of information were received from city or county agencies. Two of these, one from the County of Santa Barbara Resource Management Department and one from the City of Santa Cruz, detailed population occurrences that were already known to the Service. Two letters from the cities of San Buenaventura and Santa Barbara cited possible impacts to goby habitat due to proposed or ongoing projects. These letters listed threats that are discussed under Factor A in the "Summary of Factors Affecting the Species" section. The Santa Barbara County Flood Control and Water Conservation District stated support for listing, but expressed concerns regarding the designation of critical habitat.

The Environmental Defense Center identified three issues concerning the proposed rule.

Issue 1: The critical habitat finding failed to meet the standards of section 4 of the Endangered Species Act and under *Northern Spotted Owl* v. *Lujan*, 758 F. Supp. 621 (W.D. Wash. 1991).

Service Response: The Service concurs that critical habitat should be designated for the tidewater goby. Information needed to complete required economic impact analyses consists of identifying Federal actions that might be precluded or modified by the destruction/adverse modification standard but not by the jeopardy standard. Moreover, it will be necessary to describe how these actions may be modified by application of the destruction/adverse modification standard. This information will provide a basis for analyses on the economic effects of designating critical habitat.

Issue 2: Without critical habitat, the Service lacks jurisdiction to prevent or modify certain actions affecting the tidewater goby.

Service Response: Although in some cases critical habitat may provide protection otherwise unavailable through the jeopardy standard, jurisdiction is available through the jeopardy standard and section 9, both of which may be aggressively applied to protect listed species.

Issue 3: The Service should at minimum propose the Santa Ynez estuary as critical habitat now.

Service Response: The Service intends to propose as critical habitat all tidewater goby habitat that may be essential to the species' conservation, as opposed to the piecemeal approach advocated in the recommendation to propose one estuary. In the interim, the Santa Ynez estuary is owned by the U.S. Air Force, which is subject to the section 7(a)(1) affirmative conservation mandate and the prohibitions against jeopardy contained in section 7(a)(2).

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the tidewater goby should be classified as an endangered species. Procedures found at section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the tidewater goby (*Eucyclogobius newberryi*) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Coastal development projects that result in the loss of coastal saltmarsh habitat are currently the major factor adversely affecting the tidewater goby. Coastal marsh habitats have been drained and reclaimed for residential and industrial developments. Waterways have been dredged for navigation and harbors resulting in permanent and direct losses of wetland habitats, as well as indirect losses due to associated changes in salinity. Coastal road construction projects have severed the connection between marshes and the ocean, resulting in unnatural temperature and salinity profiles that the tidewater goby cannot tolerate.

Furthermore, upstream water diversions adversely affect the tidewater goby by altering downstream flows, thereby diminishing the extent of marsh habitats that occurred historically at the mouths of most rivers and creeks in California. Alterations of flows upstream of coastal lagoons have already changed the distribution of downstream salinity regimes. Since the tidewater goby has relatively narrow salinity tolerances, changes in salinity distributions due to upstream water diversions may adversely affect both the size and distribution of goby populations (D. Holland, Univ. of Southwestern Louisiana, pers. comm., 1991).

Historically, the tidewater goby occurred in at least 87 of California's coastal lagoons (Swift *et al.* 1989). Since 1900, it has disappeared from approximately 50 percent of formerly occupied lagoons. A rangewide status survey conducted in 1984 found that 22

historic populations of tidewater goby had been extirpated (Swift *et al.* 1989). Only 5 years later, a status survey documented the disappearance of an additional 21 populations. In the San Francisco Bay area, 9 of 10 previously identified populations have disappeared (Swift *et al.* 1989, 1990). Losses in the southern part of the State have been the greatest, including 74 percent of the coastal lagoons south of Morro Bay. Three populations currently remain south of Ventura County. Since 1989, three additional tidewater goby populations have been lost in San Luis Obispo and Santa Cruz Counties (Swift *et al.* 1989, 1990). Five small populations have been rediscovered since 1984, but the overall losses indicate a decline of 35 percent rangewide in 6 years (Holland 1991a, 1991b, 1991c; Swift *et al.* 1991).

Of the 43 remaining populations of tidewater gobies identified by Swift *et al.* (1990), most are small and threatened by a variety of human and natural factors. According to Swift *et al.* (1990), only eight extant localities contain populations that are considered large enough and free enough from habitat degradation to be safe for the immediate future. These areas are all located north of San Francisco Bay. The remaining lagoons are so small or modified that tidewater goby populations are restricted in distribution and vulnerable to elimination (Swift *et al.* 1989, 1990). The number of extirpated localities of gobies has left remaining populations so widely separated throughout most of the species' range that recolonization is unlikely.

Several specific proposed and ongoing coastal development activities threaten habitats supporting tidewater gobies, including road widening and bridge replacement projects along Highway 101, water diversion projects in San Luis Obispo County, expansion of several State Park Recreation areas in Santa Barbara and San Luis Obispo Counties, and hotel and golf course developments in San Luis Obispo and Marin Counties.

In addition to these specific threats, the tidewater goby is vulnerable throughout its remaining range because of the loss of coastal marsh, as noted above, and because of other effects of water diversions as well. In addition to restricting the goby's overall range by altering downstream salinities, water diversions and alterations of water flows may negatively impact the species' breeding and foraging activities. Gobies in southern and central California breed primarily in sand/mud substrates and apparently avoid areas that contain large amounts of decaying vegetation (Holland 1991b). Reductions in water flows may allow aggressive plant species to colonize the otherwise bare sand/mud substrates of coastal lagoon margins, thus degrading the habitat quality for the goby. Decreases in stream flows also reduce the deep stream pools utilized by gobies venturing upstream from lagoons. In San Luis Obispo County alone, the effects of drought, either directly or exacerbated by upstream water diversions, have been responsible for the extirpation of at least three populations of gobies between 1986 to 1990 (K. Worcester, California Department of Fish and Game, pers. comm., 1991).

The tidewater goby is also adversely affected by groundwater overdrafting and discharge of agricultural and sewage effluents. For example, in Santa Barbara County, increased groundwater pumpage and siltation from topsoil runoff in the San Antonio Creek drainage has significantly affected areas immediately upstream of occupied goby habitat (i.e., Barka Slough) (C. Swift, Los Angeles County Museum of Natural History, pers. comm., 1991). Enrichment by agricultural and sewage effluents may cause algal blooms and deoxygenation that restrict habitable areas of lagoons utilized by tidewater gobies, especially in summer (Swift *et al.* 1989). The potential for these factors to degrade remaining goby habitats has also been noted at all three extant localities south of Ventura County (D. Holland, pers. comm., 1991) and at several sites along the central California coast (T. Taylor, California State Parks and Recreation, pers. comm., 1991; K. Worcester, pers. comm., 1991).

The tidewater goby is further threatened by channelization of the rivers it inhabits. Because most of the goby's localities have been moderately to extremely channelized, winter floods scour the species out of the restricted channelized areas where no protection is afforded from such high flows. This type of event was responsible for the disappearance of gobies from Waddell Creek lagoon in the winter 1972–73 (C. Swift, pers. comm., 1991).

Finally, cattle grazing and feral pig activity present a threat to the existence of the tidewater goby. These activities have resulted in increased sedimentation of coastal lagoons and riparian habitats, removal of vegetative cover, increased ambient water temperatures, and elimination of plunge pools and collapsed undercut banks utilized by tidewater gobies. In San Luis Obispo County, increased sedimentation into Morro Bay has significantly accelerated the conversion of wetland habitats to upland habitats (Josselyn *et al.* 1989). Presently, cattle continue to graze freely both upstream and in many of the coastal lagoons supporting tidewater gobies (K. Worcester, pers. comm., 1991).

B. Overutilization for commercial, recreational, scientific, or educational purposes. Not known to be applicable.

C. Disease or predation. Over the past 20 years, at least 60 species of exotic fishes have been introduced to the western United States, 59 percent of which are predatory (Hayes and Jennings 1986, Jennings 1988). The introduction of exotic predators to southern California waters has been facilitated by the interbasin transport of water (e.g., California Aqueduct). Introduced predators, particularly centrarchid fishes, may have contributed to the elimination of the tidewater goby from several localities in California (Swift *et al.* 1989). The present day absence of the tidewater goby from the San Francisco delta area may well be explained by the presence of introduced predators such as striped bass (Morone saxatilis) and native predators including the Sacramento perch (Archoplites interruptus) (Swift *et al.* 1989, 1990). Two of the most recent disappearances of gobies from San Luis Obispo County (Old Creek) and San Diego County (San Onofre Creek) are likely due to the presence of exotic largemouth bass (*Micropterous salmoides*) and green sunfish (*Lepomis cyanellus*), respectively. Natural predation on gobies by rainbow trout (*Oncorhynchus mykiss*) has been documented (Swift *et al.* 1989). Other non-native predators, specifically crayfish (*Cambarus* spp.) and mosquitofish (*Gambusia* spp.), may also threaten goby populations through direct predation on adults, larvae, or eggs.

D. The inadequacy of existing regulatory mechanisms. Section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act regulate the placement of dredge and fill materials into waters of the United States. Under section 404, nationwide permits, which undergo minimal public and agency review, can be issued for projects involving less than 10 acres of waters of the United States and adjacent wetlands, unless a listed species may be adversely affected. Individual permits, which are subject to more extensive review, are required for projects that affect greater than 10 acres.

The U.S. Army Corps of Engineers (Corps) is the agency responsible for administering the section 10 and section 404 programs. The Service, as part of the section 404 review process, provides

comments on both predischarge notices for nationwide permits and public notices for individual permits. The Service's comments are only advisory, although procedures exist for elevation when disagreements between the agencies arise. In practice, the Corps' actions under section 10 and section 404 are insufficient to protect the tidewater goby.

Most projects within the range of the tidewater goby considered in this proposal may require approval from the Corps as currently described in section 404 of the Clean Water Act. Projects proposed in coastal lagoons may also require a permit under section 10 of the Rivers and Harbors Act. Federal listing of this species requires Federal agencies to insure their actions are not likely to jeopardize the tidewater goby's continued existence or destroy or adversely modify any habitat that is designated as critical.

The National Environmental Policy Act and California Environmental Quality Act require an intensive environmental review of projects that may adversely affect Federal candidate species. However, project proponents are not required to avoid impacts to these species, and proposed mitigation measures are frequently not adequately implemented. As with section 404 permits, the Service's comments through these environmental review processes are only advisory.

The California Coastal Act regulates the approval of developments within the coastal zone. Although a significant slowing in wetland losses has occurred, the continued loss and degradation of coastal wetlands since the California Coastal Act was enacted in 1974 attests to the limitations of this legislation.

E. Other natural or manmade factors affecting its continued existence. By far, the most significant natural factor adversely affecting the tidewater goby is drought and resultant deterioration of coastal and riparian habitats. California has recently experienced 5 consecutive years of lower than average rainfall. These drought conditions, when combined with human induced water reductions (i.e., diversions of water from streams, excessive groundwater withdrawals), have degraded coastal and riparian ecosystems and have created extremely stressful conditions for most aquatic species. Formerly large populations of tidewater gobies have declined in numbers because of the reduced availability of suitable lagoon habitats (i.e., San Simeon Creek, Pico Creek), others disappeared when the lagoons dried (i.e., Santa Rosa Creek). In San Luis Obispo County alone, 6 of 20 populations of tidewater gobies were extirpated between 1984 and 1989 because of drought, water diversions, and pollution (K. Worcester, pers. comm., 1991).

Habitat degradation and losses of the tidewater goby from weather related phenomena commonly occur due to the restriction of the species to coastal lagoon systems and its dependence on freshwater inflows. Events such as river flooding and heavy rainfall have been reported to destroy goby burrows and wash gobies out to sea. Storm surges that enter a lagoon may also adversely affect entire goby populations by rapidly changing its salinity.

The tidewater goby was undoubtedly subjected to such natural flood events even before major human alteration of drainage basins. As mentioned under Factor A, channelization and urbanization have increased the frequency and perhaps the intensity of such flood events. In addition, populations of gobies are becoming more isolated from one another as intervening populations are extirpated, thus further decreasing the likelihood of successfully colonizing and reestablishing a population lost to a "natural" flood.

Competition with introduced species is a potential threat to the tidewater goby. Although problems have not been documented so far, the spread of two introduced oriental gobies (yellowfin goby (*Acanthogobius flavimanus*) and chameleon goby (*Tridentiger trigonocephalus*)) may have a detrimental effect on the tidewater goby. According to Swift *et al.* (1990), the chameleon goby was recently found in Pyramid Lake, probably imported with central California water. If this goby becomes established in the Santa Clara River as other imported species have (e.g., prickly sculpin (*Cottus asper*)), the tidewater goby population at the mouth of the Santa Clara River may be at risk.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. The tidewater goby has been extirpated from nearly 50 percent of the lagoons within its historic range, including 74 percent of the lagoons south of Morro Bay. Forty-three populations remain; however, only six are large in number and reasonably free from immediate threats. Based on this evaluation, the preferred action is to list the tidewater goby as endangered. The tidewater goby has experienced a substantial decline throughout its historic range and faces threats indicating that this downward trend is likely to continue. This species lives within specific habitat zones that have been, and will continue to be, targeted for development and degradation by human activities. The goby is extremely vulnerable to adverse habitat modification and water quality changes. The tidewater goby is in imminent danger of extinction throughout its range and requires the full protection of listing as endangered under the Act to survive. For reasons discussed below, the Service is not proposing to designate critical habitat for this fish species at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat concurrently with determining a species to be endangered or threatened. Furthermore, the Service is to designate critical habitat on the basis of the best scientific and commercial data available after taking into consideration the economic and other relevant impacts of specifying an area as critical habitat (16 U.S.C. 1533(b)(2)). In the case of the tidewater goby, critical habitat is not presently determinable. A final designation of critical habitat requires detailed information on the possible economic effects of such a designation. The Service does not currently have sufficient information needed to perform the economic analysis. A delay in the determination to list the species to gather additional information and perform analyses would not serve the needs of the species. Information is needed on actions that may be proposed within tidewater goby habitat and the degree to which a designation of critical habitat may affect these actions over and above effects associated with listing the goby as endangered (i.e., the jeopardy standard alone). It will also be necessary to determine how and to what extent application of the destruction/adverse modification standard will change various Federal actions. These data will be used in the economic analyses to determine the economic effects of critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land

acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

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

A number of Federal agencies or departments control lands that support the tidewater goby. These include the Department of Defense (U.S. Army Corps of Engineers, U.S. Navy, U.S. Air Force, and U.S. Marine Corps), Department of Agriculture (U.S. Forest Service), and Department of the Interior (National Park Service and U.S. Fish and Wildlife Service). Federal actions that may be affected by this determination would be the funding or authorization of projects within the species' habitat, including the construction of roads, bridges, and dredging projects subject to section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*) and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*), and special use permits. Other Federal actions that are subject to environmental review under the National Environmental Policy Act would also require consultation with the Service. Projects on federally owned land would also be subject to the provisions of section 7 of the Endangered Species Act.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, and for economic hardship under certain circumstances. Requests for copies of the regulations on listed plants and wildlife and inquiries regarding them may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Permit Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181, telephone 503/231–6241, FAX 503/231–6243.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Field Office (see **ADDRESSES** section).

Authors

The primary authors of this final rule are Donna C. Brewer, Cathy Brown, and Thomas Davidson of the Ventura Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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

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

2. Amend § 17.11(h) by adding the following species, in alphabetical order under the group FISHES, to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.12 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Fishes							
*	*	*	*	*	*		*
Goby, tidewater	*Eucyclogobius newberryi.*	U.S.A. (CA)	Entire	E	527	NA	NA
*	*	*	*	*	*		*

Dated: January 31, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–2546 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AB73

Endangered and Threatened Wildlife and Plants; Endangered Status for Three Plants and Threatened Status for One Plant From Sandy and Sedimentary Soils of Central Coastal California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for three plants: *Chorizanthe pungens* var. *hartwegiana* (Ben Lomond spineflower (also previously known as Hartweg's spineflower)), *Chorizanthe robusta* (inclusive of var. *hartwegii* and var. *robusta*) (robust spineflower), and *Erysimum teretifolium* (Ben Lomond wallflower). The Service also determines threatened status for one plant: *Chorizanthe pungens* var. *pungens* (Monterey spineflower). These four taxa occur in coastal habitats of southern Santa Cruz and northern Monterey Counties and are imperiled by one or more of the following factors: Habitat destruction due to residential and golf course development, agricultural land conversion, sand mining, military activities, and encroachment by alien plant species. This rule implements the protection and recovery provisions afforded by the Act for these plants.

EFFECTIVE DATE: March 7, 1994.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Ventura Field Office, 2140 Eastman Avenue, Suite 100, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Connie Rutherford at the above address (805/644–1766).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe pungens Benth. var. *hartwegiana* Reveal & Hardham, *Chorizanthe robusta* Parry var. *hartwegii* (Benth. in A. DC), and *Erysimum teretifolium* Eastwood are endemic to sandstone and mudstone deposits in the Santa Cruz Mountains in Santa Cruz County, California. *Chorizanthe pungens* Benth var. *pungens* and *Chorizanthe robusta* Parry var. *robusta* are endemic to sandy soils of coastal habitats in southern Santa Cruz and northern Monterey Counties.

The Santa Cruz Mountains are a relatively young range composed of igneous and metamorphic rocks overlain by thick layers of sedimentary material uplifted from the ocean floor and ancient shoreline zone (Caughman and Ginsberg 1987). These ancient marine terraces persist as pockets of sandstones and limestones that are geologically distinct from the volcanic origins of the range. Soils that form from these sandstone and limestone deposits tend to be coarse and, at least surficially, lose soil moisture rapidly. The more mesic slopes of the Santa Cruz Mountains are covered primarily by redwood forest (Zinke 1988) and mixed evergreen forest (Sawyer *et al.* 1988).

In contrast, the drier pockets of sandstone and limestone, referred to as the "Ben Lomond sandhills" (Thomas 1961), support two unique communities—maritime coast range ponderosa pine forest and northern maritime chaparral (Griffin 1964, Holland 1986). The ponderosa pine forest, locally referred to as "ponderosa pine sandhill" or "ponderosa pine sand parkland" (California Native Plant Society 1986, Marangio and Morgan 1987), consists of an open park-like forest of scattered ponderosa pine (*Pinus ponderosa*) with knobcone pine (*Pinus attenuata*), coast live oak (*Quercus agrifolia*), and at a few sites, the federally endangered Santa Cruz cypress (*Cupressus abramsii*). These stands intergrade with another unique community, northern maritime chaparral, locally referred to as silver-leaf manzanita mixed chaparral (Marangio 1985, Marangio and Morgan 1987), and are dominated by the endemic silver-leaved manzanita (*Arctostaphylos silvicola*).

As uplift of the Santa Cruz Mountains proceeded, some of the raised marine terraces of sandstone and limestone were buried beneath layers of sedimentary material deposited by flowing water. Pockets of this alluvial material, referred to as Santa Cruz mudstone, persisted during this process of mountain uplifting and alluvial movement. In the Scotts Valley area, mudstone outcrops support annual grasses and herbaceous species. These communities were referred to as annual grasslands and wildflower fields by Holland (1986).

Discussion of the Four Species

In California, the spineflower genus (*Chorizanthe*) in the buckwheat family (Polygonaceae) comprises species of wiry annual herbs that inhabit dry sandy soils along the coast and inland. Because of the patchy and limited distribution of such soils, many species of *Chorizanthe* tend to be highly localized in their distribution.

One subsection of the genus referred to as *Pungentes* consists of seven species distinguished by the following features: The inner and outer tepals (petal-like sepals) are of equal length and are entire or lobed but not fringed, filaments are free, involucres (whorl of bracts subtending the flowers) are 6-toothed with the alternating three shorter and the anterior one slightly long-awned, involucral margins are not continuously membranaceous across the sinuses, the number of stamens are variable (3–9), and plants are decumbent to erect with spreading pubescence and are distributed mainly on or near the coast from Santa Barbara County northward to Mendocino (Reveal and Hardham 1989).

Although three of the seven species in the section *Pungentes* are still thought to be common, the remaining four species are becoming increasingly rare. Two of these species (*Chorizanthe howellii* and *C. valida*) were listed as endangered on June 22, 1992 (57 FR 27848). The remaining two species, *C. pungens* and *C. robusta*, inclusive of their varieties, are subjects of this rule.

Chorizanthe pungens was first described by George Bentham in 1836 based on a specimen collected in Monterey. This taxon was recognized by George Goodman in 1934 as the type species in describing the *Pungentes* section of the genus. At that time, Goodman also recognized *C. pungens* var. *hartwegii*, previously described and identified as *C. douglasii* var. *hartwegii* by Bentham in 1856. It was named after Karl Hartweg who collected the type from "dry mountain pastures near Santa Cruz" in 1847 (Reveal and Hardham 1989).

Chorizanthe pungens var. *hartwegiana* was distinguished from *C. pungens* var. *pungens* by James Reveal and Clare Hardham (1989) after they noticed a difference between the coastal form and an inland form found "in the Ben Lomond sand hills area." The name

Chorizanthe pungens var. *pungens* was retained to represent the coastal form of the plant. Reveal and Hardham noted that the type for *C. pungens* var. *hartwegiana* was dissimilar to the plant that was called *C. pungens* var. *hartwegii*.

The recent article describing *Chorizanthe* (Reveal and Hardham 1989) treats *C. pungens* var. *pungens* and *C. pungens* var. *hartwegiana* as distinct varieties. Though Hickman (1993) did not treat *Chorizanthe pungens* var. *hartwegiana* separately in The Jepson Manual, he did state that plants with "more erect petals with pink to purple involucral margins have been called var. *hartwegiana* Rev. & Hardham." For the purposes of this final rule, the Service lists *C. pungens* var. *pungens* and *C. pungens* var. *hartwegiana* separately because the former variety qualifies for threatened status and the latter qualifies for endangered status under the Act. Even if the conservative Hickman (1993) treatment were used, *C. pungens* (inclusive of vars. *pungens* and *hartwegiana*) faces the same threats as described under the section entitled "Summary of Factors Affecting the Species" and would qualify for listing under the Act.

Chorizanthe robusta was first described by Charles Parry in 1889 based on a collection he made 6 years earlier "north of Aptos along Monterey Bay" (Parry 1889). Willis Jepson considered it to be a variety of *C. pungens* and thus combined the taxon under the name *C. pungens* var. *robusta* in his Flora of California in 1914 (Jepson 1914). In their revision of the genus in 1989, Reveal and Hardham (1989) recognized Parry's treatment and retained the taxon as *C. robusta*. Although they placed in this synonymy the type of *C. pungens* var. *hartwegii*, Reveal and Hardham noted that the definition of the taxon was still not settled with their review.

Concurrent with the publication of the Reveal and Hardham revision, the first collection in over 50 years was made of the inland form that matched Hartweg's original collection made in 1847. Reveal was therefore able to reconfirm its affinity with *Chorizanthe robusta*, while recognizing the distinctness of this taxon as a variety. Reveal, along with local botanist Randall Morgan, published the combination *C. robusta* var. *hartwegii* (Reveal and Morgan 1989), inclusive of the type of *C. pungens* var. *hartwegii*.

The recent article describing *Chorizanthe robusta* var. *hartwegii* (Reveal and Morgan 1989) treats *C. robusta* var. *robusta* and *C. robusta* var. *hartwegii* as distinct varieties. Though Hickman (1993) did not treat *C. robusta* var. *hartwegii* separately in The Jepson Manual, he did state that plants with "more erect petals with pink involucral margins have been called var. *hartwegii* (Benth.) Rev. & R. Morgan." For the purposes of this listing, the Service adds the entire species of *C. robusta* (inclusive of *C. robusta* var. *hartwegii* and *C. robusta* var. *robusta*) to the List of Endangered and Threatened Wildlife and Plants.

During the Service's review of a petition to list *Chorizanthe robusta* var. *hartwegii*, Dr. John Thomas questioned the taxonomic validity of *Chorizanthe robusta* var. *hartwegii* (John Thomas, Stanford University, *in litt.*, 1990). To address these concerns, the Service reviewed specimens of *Chorizanthe robusta* var. *hartwegii* and other closely related taxa in the *Pungentes* subsection of the genus with plant taxonomists at the University of California. The Service's review indicates that specimens ascribed to *C. pungens* and *C. robusta* have five morphologically recognizable phases that correspond to ecological and geographical patterns. Four of these five phases generally correspond to *C. pungens* var. *pungens*, *C. pungens* var. *hartwegiana*, *C. robusta* var. *robusta*, and *C. robusta* var. *hartwegii*. The fifth phase consists of specimens that were identified as *C. robusta* or *C. pungens* (Ertter 1990). This final rule, by addressing the subject four varieties of *Chorizanthe*, includes all five phases reviewed.

Chorizanthe pungens var. *pungens* and *Chorizanthe robusta* var. *robusta* are endemic to sandy soils of coastal habitats in southern Santa Cruz and northern Monterey Counties. The inner rim of Monterey Bay is characterized by broad, sandy beaches backed by an extensive dune formation. Just inland from the immediate coast, maritime chaparral occupies areas with well-drained soils. Coastal dune and coastal scrub communities exist along the inner rim of Monterey Bay, but portions were affected by habitat modification or destruction.

Chorizanthe pungens var. *pungens* (Monterey spineflower) has white (rarely pinkish) scarious margins on the involucral lobes and a prostrate to slightly ascending habit that distinguish it from *Chorizanthe pungens* var. *hartwegiana*. The aggregate of flowers (heads) tend to be small (less than 1 centimeter (cm) (0.4 inches (in)) in diameter) and either distinctly or indistinctly aggregate. The plant is found scattered on sandy soils within coastal dune, coastal scrub, grassland, maritime chaparral, and oak woodland communities along and adjacent to the coast of southern Santa Cruz and northern Monterey Counties and inland to the coastal plain of Salinas Valley. Historically, the plant ranged along the coast from southern Santa Cruz County south to northern San Luis Obispo County and from Monterey inland to the Salinas Valley. Only one collection dating from 1842 was made from northern San Luis Obispo County; however, in recent years it was not collected south of Monterey Peninsula (Reveal and Hardham 1989).

Along the immediate coast, *Chorizanthe pungens* var. *pungens* was documented at Manresa State Beach and the dunes near Marina. The plant probably was extirpated from a number of historical locations in the Salinas Valley, primarily due to conversion of the original grasslands and valley oak woodlands to agricultural crops (Reveal and Hardham 1989). Significant populations of *Chorizanthe pungens* var. *pungens*, representing upwards of 70 percent of the range of the plant, were recently documented from Fort Ord (Army Corps of Engineers 1992). These surveys indicated that within grassland communities the plant occurs along roadsides, in firebreaks, and in other disturbed sites. In oak woodland, chaparral, and scrub communities, the plants occur in sandy openings between shrubs. In older stands with a high cover of shrubs, the plant is restricted to roadsides and firebreaks that bisect these communities. The highest densities of *C. pungens* var. *pungens* are located in the central portion of the firing range, where disturbance is the most frequent. Although studies were not conducted on factors that determine the pattern of distribution and the densities of *C. pungens* var. *pungens* on Fort Ord, a correlation exists between open conditions resulting from activities that disturb habitat and high densities of *C. pungens* var. *pungens*. Prior to onset of human use of this area, this species was possibly restricted to openings created by wildfires within these communities.

Chorizanthe robusta (robust spineflower) is comprised of two varieties: *C. robusta* var. *robusta* and *C. robusta* var. *hartwegii*. A description of the species is broken out below by variety.

Chorizanthe robusta var. *robusta* has thin white to pinkish scarious margins along the basal portions of the teeth and an erect to spreading or prostrate habit. The heads are large (1.5 to 2 cm (0.6 to 0.8 in) in diameter) and distinctly aggregate. The plant once ranged from Alameda to Monterey Counties, but is currently known only from sandy and

gravelly soils along and adjacent to the coast of southern Santa Cruz and northern Monterey Counties. Many of the areas from which collections were made in Alameda and San Mateo Counties were urbanized, and no new collections were made from there or from Monterey County for 30 years (Ertter 1990). As with *C. pungens* var. *pungens*, the coastal dune and scrub communities were affected by recreational use, urban development, and military activities, and the coastal plain vegetation of the Salinas Valley was converted to agricultural crops. The only known extant populations occur northeast of the city of Santa Cruz on property recently acquired by the city from the University of California and near Sunset and Manresa State Beaches, approximately 12 miles away. The total number of individuals of the plant was estimated to be less than 7,000 in 1990.

Specimens collected from certain populations of *Chorizanthe* in the vicinity of Sunset State Beach are "comparable to *Chorizanthe pungens*" according to Ertter (1990). The Service believes that these populations are best assigned to *Chorizanthe pungens* var. *pungens*.

Chorizanthe robusta var. *hartwegii* has rose-pink involucral margins confined to the basal portion of the teeth and an erect habit. The heads are medium in size (1 to 1.5 cm (0.4 to 0.6 in) in diameter) and distinctly aggregate. The plant is endemic to Purisima sandstone and Santa Cruz mudstone in Scotts Valley in the Santa Cruz Mountains. Where *C. robusta* var. *hartwegii* occurs on Purisima sandstone, the bedrock is overlain with a thin soil layer that supports a meadow community comprised of herbs and low-growing grasses. The presence of certain associated species, such as toad rush (*Juncus bufonis*), sand pigmyweed (*Crassula erecta*), mosses, and lichens, suggest a high seasonal moisture content. Where the plant occurs on Santa Cruz mudstone, the bedrock is variously mixed with scree or a thin soil layer that also supports a meadow community of herbs and grasses, though of somewhat different composition than those on Purisima sandstone, and with a lower frequency of toadrush, pigmyweed, and lichens (Habitat Restoration Group 1992).

The only known extant populations of *Chorizanthe robusta* var. *hartwegii* occur in Scotts Valley in the Santa Cruz Mountains north of the city of Santa Cruz. The plant occurs primarily on pockets of Santa Cruz mudstones and Purisima sandstones and is associated with annual grasslands and wildflower fields (Reveal and Morgan 1989). These islands of unique substrates are host to a number of rare plants. Three populations of the plant, each consisting of numerous small colonies, are scattered over an area 1 mile in diameter on three parcels in private ownership. In 1989, shortly after the taxon was rediscovered, the total number of individuals was estimated to be approximately 6,000 (California Natural Diversity Data Base (CNDDB) 1990). As a result of two proposals for development that were pending at the time, additional surveys were conducted during the next few years. Results of 1992 surveys were that the two populations on land proposed for a development named Glenwood Estates totalled between 30,000 and 100,000 individuals (Habitat Restoration Group 1992). The numbers of this annual plant are expected to fluctuate from year to year, depending on climatic conditions.

Chorizanthe pungens var. *hartwegiana* (Ben Lomond spineflower) has dark pinkish to purple scarious margins on the involucral lobes and a slightly ascending to erect habit. The heads are medium in size (1 to 1.5 cm (0.4 to 0.6 in) in diameter) and distinctly aggregate. The plant is found on sandy soils that are the basis for the Ben Lomond sandhills communities in the Santa Cruz Mountains, mostly on privately owned land. *C. pungens* var. *hartwegiana* is confined to outcrops of sandstone soils in the Santa Cruz Mountains from Big Basin State Park to the Felton area in the Santa Cruz Mountains. These sandstone soils support several unique plant communities, including the ponderosa pine-dominated Ben Lomond sandhills. The majority of occurrences of *C. pungens* var. *hartwegiana* are found on privately owned lands within the area generally bounded by the communities of Ben Lomond, Glenwood, Scotts Valley, and Felton.

Erysimum teretifolium (Ben Lomond wallflower) was first collected at Glenwood, Santa Cruz County, by Horace Davis in 1914. This plant was described by Alice Eastwood in 1938 as *E. filifolium*, not realizing that this combination was already applied to another plant (Eastwood 1938). It was therefore renamed *E. teretifolium* in the following year (Eastwood 1939). *E. teretifolium* is a biennial, or occasionally an annual, plant of the mustard family (Brassicaceae). Seedlings form a basal rosette of leaves, which then wither as the main stem develops flowers clustered in a terminal raceme. The flowers are a deep yellow with petals 1.3 to 2.5 cm (0.5 to 1.0 in) long; the slender capsule reaches 10 cm (4.0 in) in length and is covered with three-parted hairs. The leaves are simple and narrowly linear, a characteristic that separates this plant from other wallflowers.

Erysimum teretifolium is endemic to pockets of sandstone deposits in the Santa Cruz Mountains and is presently known from only a dozen scattered occurrences. These sandstone deposits support the unique ponderosa pine sandhill community, and *E. teretifolium* seems to prefer sites with loose, uncompacted sand in openings between scattered chaparral shrubs. *Chorizanthe robusta* var. *robusta* is found in close proximity with *E. teretifolium* at some locations. A dozen populations of *E. teretifolium* occur within the area generally bounded by the communities of Ben Lomond, Glenwood, Scotts Valley, and Felton, with one outlying population occurring in the Bonny Doon area, 5 miles west of Felton. One population occurs at Quail Hollow Ranch, which is jointly owned by Santa Cruz County, The Nature Conservancy, and the California Department of Fish and Game (CDFG). All other populations are on privately owned lands.

Previous Federal Action

Federal government actions for one of these four plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In the report, *Erysimum teretifolium* was recommended for threatened status. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (now section 4(b)(3)(A)) of the Act and of the Service's intention thereby to review the status of the plant taxa named within.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Erysimum teretifolium* as a category 1 candidate (species for which data in the Service's possession are sufficient to support proposals for listing) and *Chorizanthe pungens* var. *pungens* as a category 2 candidate (species for which data in the Service's possession indicate listing may be appropriate, but for which additional biological information is needed to support listing). In the September 27, 1985, revised notice of review for plants (50 FR 39526), *E. teretifolium* was again

included as a category 1 candidate, and *C. pungens* var. *pungens* as a category 2 candidate. In the February 21, 1990 (55 FR 6184), notice of review for plants, *E. teretifolium* was retained in category 1 and *Chorizanthe pungens* var. *pungens* and *Chorizanthe pungens* var. *hartwegiana* in category 2.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as newly submitted on that date. This was the case for *Erysimum teretifolium* because the 1975 Smithsonian report was accepted as a petition. In October 1983, 1984, 1985, 1986, 1987, 1988, 1989, and 1990, the Service found that the petitioned listing of *E. teretifolium* was warranted, but that the listing of this species was precluded by other pending proposals of higher priority.

On May 16, 1990, the Service received a petition from Steve McCabe, president, and Randall Morgan of the Santa Cruz Chapter of the California Native Plant Society to list *Chorizanthe robusta* var. *hartwegii* as endangered. Based on a 90-day finding that the petition presented substantial information indicating that the requested action may be warranted (55 FR 46080), the Service initiated a status review of this taxon. During that time the Service also reviewed the status of *Chorizanthe robusta* var. *robusta*. This final rule constitutes the Service's final finding that the listing of *C. robusta*, inclusive of var. *robusta* and var. *hartwegii*, as endangered, is warranted, and that the listing of *Erysimum teretifolium* as endangered is warranted.

On October 24, 1991 (56 FR 55111), the Service published a proposal to list *Chorizanthe pungens* var. *hartwegiana*, *Chorizanthe pungens* var. *pungens*, *Chorizanthe robusta* var. *hartwegii*, *Chorizanthe robusta* var. *robusta*, and *Erysimum teretifolium* as endangered species. That proposal was based, in large part, on the survey information, occurrence data, and information on pending projects that would adversely affect the five plants. *C. robusta* consisted of varieties *hartwegii* and *robusta* at the time of the publication of the proposed rule. Because the two *C. robusta* varieties, *hartwegii* and *robusta*, qualify for endangered status, this rule lists the entire species. Hence this rule lists four plants, yet discusses each of the five varieties separately. The Service now determines *C. pungens* var. *hartwegiana*, *C. robusta* (inclusive of vars. *hartwegii and robusta*), and *E. teretifolium* to be endangered species, and *C. pungens* var. *pungens* to be a threatened species, with the publication of this rule.

Summary of Comments and Recommendations

In the October 24, 1991, proposed rule (56 FR 55111) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. A 60-day comment period closed on December 23, 1991. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A request for a public hearing was received from Allan Butler of APC International, Inc. On May 15, 1992, and again on May 26, 1992, the Service published notices in the **Federal Register** (57 FR 20805 and 57 FR 21993) announcing the publication of the proposal, the public hearing, and the reopening of the comment period until July 15, 1992. A notice announcing the publication of the proposal and the public hearing was published in the Santa Cruz Sentinel on May 18, 1992. The Service conducted a hearing on June 4, 1992, at the Santa Cruz County Government Center in Santa Cruz. Testimony was taken from 6 p.m. to 8 p.m. Twenty-one parties presented testimony.

During the comment periods, the Service received written and oral comments from 48 parties. CDFG, California Department of Parks and Recreation, The Nature Conservancy, California Native Plant Society, National Audubon Society, Sierra Club, Environmental Council of Santa Cruz County, Southridge Watershed Association, and the Resource Defense Fund were some of the 38 commenters expressing support for the listing proposal. Eight commenters opposed the listing of *Chorizanthe robusta* var. *hartwegii*. The city of Marina opposed the listing of *Chorizanthe pungens* var. *pungens*. Two commenters, one of whom offered technical comments on the proposal, were neutral. In addition, results of additional surveys for the plants (Army Corps of Engineers 1992, Habitat Restoration Group 1992) were incorporated into this final rule. Written comments and oral statements obtained during the public hearing and comment periods are combined in the following discussion. Opposing comments and other comments questioning the rule were organized into specific issues. These issues and the Service's response to each are summarized as follows:

Issue 1: Several commenters felt that there was insufficient scientific evidence to list *Chorizanthe robusta* var. *hartwegii*. Others stated that the Service used data that were skewed or selectively chosen to support the listing of this plant; "relied on the expertise of an amateur botanist whose opinion [is cited] without investigation of contrary opinions by, arguably, more qualified professionals;" and did not utilize information supplied by Dr. Thomas that challenged the appropriateness of listing *C. robusta* var. *hartwegii*.

Service Response: In preparing the proposed rule, the Service utilized information from botanical collections and observations that date from the mid-1800s, as well as data that were submitted to the Service in response to a request for information made to local and State agencies and other interested parties. The Service therefore maintains that the best available commercial and scientific information was utilized in preparation of the proposed rule. No data were submitted to support the contention that the Service skewed or selectively chose data to support the proposal. During preparation of the proposal, the Service consulted with a number of professional botanists, and other professional biologists commented during the comment period. These botanists and biologists gave biological bases that supported the listing of *Chorizanthe robusta* var. *hartwegii*. The Service, therefore, believes that this determination to list the plant as endangered under *C. robusta* is appropriate and is supported by the botanical community.

Issue 2: Several commenters pointed out that the California Fish and Game Commission rejected a proposal to State list *Chorizanthe robusta* var. *hartwegii*, and it was, therefore, inappropriate for the Service to pursue Federal listing due to the "doctrine of comity" (the informal and voluntary recognition by courts of one jurisdiction of the laws and judicial decision of another).

Service Response: The California Fish and Game Commission did not reject a proposal to State list *Chorizanthe robusta* var. *hartwegii*, rather it determined that not enough information was available to petition the plant for State listing. The opinions of the California Fish and Game Commission were not shared by CDFG, which supported the Federal listing at the public hearing and in writing (Ken Berg, CDFG, pers. comm., 1992). The Act does not require agreement among State agencies. Moreover, CDFG, in collaboration with The Nature Conservancy and the California Native Plant Society, supplied the Service with

data, through the CNDDB (1990), that supports Federal listing of the four plants.

Issue 3: A few commenters, citing Dr. John Thomas's opinions, stated that *Chorizanthe robusta* var. *hartwegii* is not a distinct taxon. Others contended that other botanical experts consulted by the Service "did not reach a conclusion which would change the above view" and that their brief reviews were not definitive and did not resolve the taxonomic questions that were raised. One commenter stated that a thorough taxonomic revision of the *Pungentes* subsection of the genus *Chorizanthe* was needed.

Service Response: The Service believes that the recognized authority for the taxonomy of the buckwheat family, Dr. James Reveal, provided sufficient data to support the taxonomic validity of *Chorizanthe robusta* var. *hartwegii*. Moreover, other botanical experts consulted by the Service did not provide any information that disputed the taxonomic validity of this plant. The species *C. robusta*, inclusive of vars. *robusta* and *hartwegii*, faces threats as described under the section entitled "Summary of Factors Affecting the Species," hence even if the conservative Hickman (1993) treatment were used as in The Jepson Manual, the entire species would qualify for listing under the Act. The Service agrees that additional taxonomic work on the *Pungentes* subsection of the genus *Chorizanthe* would be desirable, but maintains that the existing treatment is sufficient to proceed with the listing.

Issue 4: Several commenters contended that adequate regulatory mechanisms are currently in place, through the California Environmental Quality Act and the California Endangered Species Act, to protect *Chorizanthe robusta* var. *hartwegii*.

Service Response: The only protection given to State-listed species is the requirement that landowners give CDFG 10 days notice of any land use change. The California Environmental Quality Act requires mitigation for projects that adversely affect listed plants as well as those that qualify for State listing; however, many mitigation attempts do not achieve the goal of securing long-term protection for such plants (Howald 1992). The California Environmental Quality Act process allowed the city of Scotts Valley to make a statement of overriding considerations to approve the Glenwood Development Company's project even though the project will eliminate approximately two-thirds of the known habitat for *Chorizanthe robusta* var. *hartwegii* (City of Scotts Valley 1992). Furthermore, CDFG was unable to come to agreement with the Glenwood Development Company on mitigation for impacts to the plant and compensation for unavoidable losses (Brian Hunter, CDFG, *in litt.*, 1993). The failure of existing regulatory mechanisms to adequately protect the plant are further discussed under Factor D in the "Summary of Factors Affecting the Species" section.

Issue 5: One commenter claimed that the Service has no jurisdiction over *Chorizanthe robusta* var. *hartwegii* because it occurs on privately owned lands, and the plant is neither in interstate commerce nor the subject of an international treaty and, therefore, is exclusively under the jurisdiction of the State.

Service Response: Section 4 of the Act directs the Service to evaluate species for listing based on biological information only, not land jurisdiction. The five factors on which the biological vulnerability of species are evaluated are discussed in the "Summary of Factors Affecting the Species" section. Land ownership is not a factor used to determine whether or not listing is appropriate.

Issue 6: Two commenters stated that data concerning *Chorizanthe robusta* var. *hartwegii* were obtained in violation of State trespass laws on private land; therefore, such "illegal evidence" should be excluded from consideration in the listing process.

Service Response: The "trespass" issue does not involve the Service, and although the Service does not condone entering private land without permission, it is charged with using the best commercially and scientifically available information in preparation of a proposal. Moreover, information concerning the rarity of *Chorizanthe robusta* var. *hartwegii*, the threats to its continued existence, and information from surveys on private land were made part of the public record in environmental assessments that were prepared as required by the California Environmental Quality Act (City of Scotts Valley 1989, Harding Lawson Associates 1991).

Issue 7: Several commenters charged that the proposed rule for *Chorizanthe robusta* var. *hartwegii* was promulgated merely to fulfill requirements of a settlement resulting from the lawsuit filed against the Service by the California Native Plant Society. They further contended that this deprived Glenwood Development Company of its rights and is contrary to the intent and language of the Endangered Species Act.

Service Response: The California Native Plant Society lawsuit settlement requires the Service to propose for listing those plant taxa that were identified as category 1 candidates for listing in the February 21, 1990, notice of review (56 FR 58804). Of the five taxa included in the proposed rule, only *Erysimum teretifolium* was a category 1 candidate in the February 21, 1991, notice of review, and is the only one of the four taxa subject to the requirements of the lawsuit settlement. However, Federal action on all five taxa began prior to the settlement of the California Native Plant Society lawsuit (see section on "Previous Federal Action"). As stated under the Service Response to Issue 5 above, the Endangered Species Act directs the Service to list species on the basis of biological vulnerability.

Issue 8: One commenter stated that the Service failed to publish the proposed rule within 1 year of having received the petition, which therefore failed to meet statutory time requirements, and requested that the proposed rule be withdrawn.

Service Response: The Service endeavors to meet statutory timeframes; however, nothing in the statute suggests that the Service is required to withdraw proposals because deadlines are missed.

Issue 9: One commenter stated that the Service failed to prepare environmental assessments as required by the National Environmental Policy Act.

Service Response: The Service is exempt from preparing environmental assessments regarding the listing of species pursuant to the National Environmental Policy Act for reasons outlined in the **Federal Register** on October 25, 1983 (48 FR 49244). This is stated in the proposed rule and this final rule under the section titled "National Environmental Policy Act."

Issue 10: One commenter stated that *Erysimum teretifolium* is a weed and that he had "seen it in many places in the county" and on "all kinds of roadbanks," presumably meaning that the species is more widespread than is indicated in the proposed rule. He also felt that the public should be encouraged to grow it as a garden plant, presumably to assist in perpetuating the species.

Service Response: No information was submitted to the Service to substantiate the locations of additional populations of *Erysimum teretifolium*. Since the time the proposal was published, no documentation has been made of additional populations of the plant found by any botanists that contribute to CNDDB (CNDDB 1993). The Service, therefore, maintains that this decision is based on the best and most current information available and that it is sufficient to warrant making a

determination on its status. With regard to the suggestion to cultivate *E. teretifolium* as a garden plant, the Service recognizes the value of maintaining cultivated collections of rare species. Such collections, however, do not replace protection for native ecosystems, which is the intent of the Endangered Species Act.

Issue 11: Two agencies (CDFG and California Department of Parks and Recreation) recommended that the Service list *Chorizanthe pungens* var. *pungens* as threatened rather than endangered.

Service Response: Since publication of the proposal, the Service has reviewed additional biological information, including surveys for *Chorizanthe pungens* var. *pungens* recently conducted on Fort Ord by an environmental consulting firm, Jones and Stokes Associates (Army Corps of Engineers 1992). Substantial new populations were located on Fort Ord, but the pending disposal of Fort Ord still places these populations at risk. The Service therefore determined that threatened status for this plant is appropriate.

Issue 12: Several commenters requested that the Service designate critical habitat for *Chorizanthe robusta* var. *hartwegii*.

Service Response: Under section 4(a)(3)(A) of the Act, the Secretary must designate critical habitat to the maximum extent prudent and determinable at the time a species is determined to be endangered or threatened. In the proposed rule, the Service found that determination of critical habitat was not prudent for these species. As discussed under the "Critical Habitat" section below, the Service finds that designation of critical habitat for *Chorizanthe robusta*, inclusive of vars. *robusta* and *hartwegii*, is prudent but not determinable at this time. For certain populations that would likely not be imperiled by the threat of vandalism, collecting, or other human activities, the Service will propose designation of critical habitat.

Issue 13: One commenter expressed concern that several specimens of *Chorizanthe* collected by Yadon from Fort Ord, Monterey County, were not discussed in the proposed rule. The specimens were originally annotated as *Chorizanthe robusta* var. *hartwegii* by Dr. James Reveal.

Service Response: The specimens that were collected from Fort Ord were among those that were reviewed by taxonomists at the University Herbarium and the Jepson Herbarium at the University of California, Berkeley, prior to preparation of the proposed rule (Ertter 1990). In their report, the taxonomists indicated that the specimens belong in *Chorizanthe douglasii* rather than *Chorizanthe robusta*. They cite the well-developed united involucral margins, a feature that separates the subsection Legnota (which includes *Chorizanthe douglasii*) from the seven other subsections of the genus *Chorizanthe* (which includes the subsection Pungentes) that do not have united involucral margins (Ertter 1990, Reveal and Hardham 1989). On the basis of this taxonomic review, the Service concludes that no confirmed collections of *Chorizanthe robusta* var. *hartwegii* exist from Fort Ord or anywhere else in Monterey County. No additional discussion concerning the specimens from Fort Ord has been included in the final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Chorizanthe pungens* var. *hartwegiana* (Ben Lomond spineflower), *Chorizanthe robusta* (inclusive of vars. *hartwegii* and *robusta*) (robust spineflower), and *Erysimum teretifolium* (Ben Lomond wallflower) should be classified as endangered species, and *Chorizanthe pungens* var. *pungens* (Monterey spineflower) should be classified as a threatened species. Procedures found at section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Chorizanthe pungens* Benth. var. *hartwegiana* Reveal & Hardham (Ben Lomond spineflower), *Chorizanthe pungens* Benth. var. *pungens* (Monterey spineflower), *Chorizanthe robusta* Parry (inclusive of var. *hartwegii* (Benth. in A. DC) Reveal & Morgan and var. *robusta*) (robust spineflower), and *Erysimum teretifolium* Eastwood (Ben Lomond wallflower) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Three taxa (*Chorizanthe pungens* var. *hartwegiana, Chorizanthe robusta* var. *hartwegii*, and *Erysimum teretifolium*) are restricted to sandstone and mudstone soils in the Santa Cruz Mountains. Two taxa (*Chorizanthe pungens* var. *pungens* and *Chorizanthe robusta* var. *robusta*) are found only on sandy soils of coastal and near coastal habitats in southern Santa Cruz and northern Monterey Counties. These species and their associated habitats are threatened by one or more of the following: residential and golf course development, agricultural land conversion, recreational use, sand mining, dune stabilization projects, and military activities.

Sand quarrying resulted in the direct removal of *Chorizanthe pungens* var. *hartwegiana* habitat, and a currently proposed expansion of operations at Quail Hollow Quarry may eliminate additional populations. Residential development on smaller parcels of privately owned lands also contributed to the elimination of *C. pungens* var. *hartwegiana* and the fragmentation of the remaining habitat. Protective management for sandhill parkland communities will be developed for one parcel recently acquired by the State of California.

In the 1870s, limestone quarries began operating in the Bonny Doon area of the Santa Cruz Mountains, as well as in other locations around the county (Caughman and Ginsberg 1987). In more recent years, sand quarrying replaced limestone mining as a viable economic activity. At least half of the habitat occupied by *Chorizanthe pungens* var. *hartwegiana* is on property owned by sand and gravel companies. Operations at a number of quarries, including Kaiser 1 and 2, Olympia, and Quail Hollow, have already extirpated populations of *Erysimum teretifolium* (Randall Morgan, botanist, Soquel, California, pers. comm., 1990). Expanded operations are currently proposed for Quail Hollow Quarry (John Gilchrist and Associates 1990, Strelow 1993). One parcel (Quail Hollow Ranch), which was recently acquired by Santa Cruz County and the State of California, supports a large population of *Chorizanthe pungens* var. *hartwegiana*, as well as other unique species of the sandhill parklands habitat. Management plans for Quail Hollow Ranch are under development by Santa Cruz County, hence proposed recreational facilities may affect populations of both *C. pungens* var. *hartwegiana* and *E. teretifolium* (County of Santa Cruz 1990). Another parcel owned by the San Lorenzo Valley Water District also supports several of the unique elements of the Ben Lomond sandhills habitat, including *Chorizanthe pungens* var. *hartwegiana*. This parcel was badly damaged by off-road vehicles despite efforts to fence off the area by the District. Small populations of *C. pungens* var. *hartwegiana* are also known to occur at the Bonny Doon Ecological Preserve, managed by The

Nature Conservancy, and at Big Basin and Henry Cowell State Parks. These parks, however, have not yet developed management plans for *C. pungens* var. *hartwegiana*.

The remaining coastal dune and coastal scrub habitats that support *Chorizanthe pungens* var. *pungens* were affected by industrial and residential development, recreational use, and dune stabilization due to the introduction of non-native species. Along the coast of the north side of Monterey Peninsula, human and equestrian use threaten scattered occurrences of *Chorizanthe pungens* var. *pungens*, and a development is planned for a parcel owned by the Pebble Beach Corporation (Vern Yadon, retired, Museum of Natural History, Pacific Grove, pers. comm., 1991). Other small scattered occurrences within maritime chaparral habitat may become affected by residential development and by a realignment of Highway 101.

Chorizanthe pungens var. *pungens* was probably extirpated from a number of historical locations in the Salinas Valley, primarily due to conversion of the original grassland and valley oak woodland habitat to agricultural crops. One occurrence at Manzanita County Park near Prunedale currently is not protected. A route realignment proposed for Highway 101 in northern Monterey County could destroy scattered occurrences (R. Morgan, pers. comm., 1991).

The Fort Ord Army Base probably supports the largest extant population of *Chorizanthe pungens* var. *pungens*. In recent years, road development and construction of an ammunition supply depot on the base eliminated some *C. pungens* var. *pungens* habitat, and fragmented the remaining habitat. As mitigation for recent construction, the Department of Defense, with the assistance of the California Native Plant Society, established a series of small preserves, ranging in size from 1 to 15 acres, for the purpose of protecting rare species, including *C. pungens* var. *pungens*. The small size of these preserves, however, is not likely to be sufficient to ensure long-term protection for the plant. Just prior to publication of the proposal to list the five taxa under discussion, the Department of Defense announced intentions to close the base at Fort Ord. The impact that base closure will have on *C. pungens* var. *pungens* is not known at this time but will largely be determined by the intended uses of the land by the agencies or entities to which the land will be transferred.

In southern Santa Cruz County, *Chorizanthe pungens* var. *pungens* is known to occur at Sunset and Manresa State Beaches, and within the past few years, scattered occurrences were found as far north as Day Valley (R. Morgan, pers. comm., 1991). Populations at Sunset State Beach possibly were inadvertently affected by trampling and the introduction of non-native species during dune stabilization projects.

Populations of *Chorizanthe robusta* var. *robusta* in coastal dune and coastal scrub habitats were affected by residential development, recreational use, and the introduction of non-native species. Management plans for *Chorizanthe robusta* var. *robusta* at Sunset State Beach are not yet developed. Sunset State Beach has the largest known population, numbering about 5,000 individuals in 1988 (CNDDB 1993). Smaller populations of a few hundred each near Manresa State Beach and on property owned by the city of Santa Cruz are not currently protected. The city will be developing a management plan to manage the property as a "low impact" park and intends to protect habitat for the plant (Ken Thomas, City of Santa Cruz, pers. comm., 1993).

A patch of 300 individuals of *Chorizanthe robusta* var. *robusta* that was reported in 1985 from Manresa State Beach could not be relocated in 1990 (CNDDB 1990). Efforts were started at Sunset State Beach to restore the native dune species by removing the introduced non- native species (Ferreira 1989). If the presence of *Chorizanthe robusta* var. *robusta* is taken into consideration in areas targeted for such restoration, impacts to the plant may be avoided.

Virtually the entire range of *Chorizanthe robusta* var. *hartwegii* occurs on three parcels, all in private ownership. Two parcels, totaling 282 acres, are currently proposed for a residential development and golf course named Glenwood Estates Development (City of Scotts Valley 1989). Surveys indicated that suitable habitat for *C. robusta* var. *hartwegii* occupied 12 acres of the 282 acres of the two Glenwood Estates parcels, and 10 percent of this suitable habitat was occupied by the *C. robusta* var. *hartwegii* (Habitat Restoration Group 1992). One other 116-acre parcel was planned for residential development, but the ownership was transferred to a software development and marketing firm that intends to establish world headquarters on the site. The firm indicated that the pending expansion of its global headquarters would affect less than 20 percent of the 116-acre parcel (Pat Welch, Borland Corporation, pers. comm., 1993). The firm expressed intention to set aside habitat for *C. robusta* var. *hartwegii*, but since no legal protection currently exists for any of the known populations of the plant, *C. robusta* var. *hartwegii* is threatened with the direct destruction of a portion of currently occupied habitat and with secondary impacts as discussed under Factor E.

Historical and continuing threats to *Erysimum teretifolium* include the direct removal of habitat by sand quarrying and residential development. Alteration of habitat may also be occurring in the form of increased canopy density within the Ben Lomond sandhills as a result of fire suppression. Currently, the only population that is potentially protected is on the recently acquired Quail Hollow Ranch site; however, development of recreational facilities is proposed for a portion of the ranch (County of Santa Cruz 1990). The suppression of wildfires within the Santa Cruz mountains caused the density of woodland within the pine sandhill community to increase, which in turn may reduce the availability of suitable habitat for the plant (California Native Plant Society 1986).

The largest population of *Erysimum teretifolium*, located at the Quail Hollow Quarry, contains about 75 percent of the total number of known individuals of this species (approximately 5,400 individuals) (Bittman 1986). This population was already reduced in size by sand quarrying, and ongoing quarrying will likely continue to reduce the size of the population. A current proposal to expand mining operations at this quarry would eliminate habitat supporting several hundred individuals of *E. teretifolium*, as well as an undetermined number of *Chorizanthe pungens* var. *hartwegiana* (Strelow 1993). Of the remaining populations, none comprise over 400 individuals, and about half total less than 100 individuals each (Bittman 1986). Aside from the largest population, several of the smaller populations were also reduced in size by quarrying, as well as by development of private lots. Occurrences of the plant were repeatedly vandalized in the Bonny Doon area (California Native Plant Society 1986), apparently by landowners intent on developing their properties. Quail Hollow Ranch, a site which supports less than 300 plants, was recently acquired as a park through the joint efforts of The Nature Conservancy, Santa Cruz County, and the State of California. However, management plans developed for the county portion of Quail Hollow Ranch may include development of recreational facilities, which may affect

E. teretifolium (County of Santa Cruz 1990).

B. Overutilization for commercial, recreational, scientific, or educational purposes. No evidence of collection for commercial, scientific, recreational, or educational purposes exists; however, acts of vandalism have impacted *Erysimum teretifolium* and *Chorizanthe pungens* var. *hartwegiana*. In addition, increased awareness of the need for protection of these species could increase the threat of vandalism to these plants and their habitats.

At least one population of *Erysimum teretifolium* was destroyed by a private landowner during and shortly after the plant was processed for endangered status by CDFG in 1981 (CNDDB 1992). Other occurrences of vandalism of this species were reported from a sand and gravel mine (Bittman 1986). A parcel of land owned by the San Lorenzo Valley Water District that supports several of the unique elements of the Ben Lomond sandhills habitat, including *Chorizanthe pungens* var. *hartwegiana*, was badly damaged by off-road vehicles despite efforts to fence off the area by the District.

C. Disease or predation. Two of three populations of *Chorizanthe robusta* var. *hartwegii* were grazed by horses in Scotts Valley. No data exist to substantiate whether grazing threatens this plant. No information exists concerning the threat of disease or predation to the other three plants.

D. The inadequacy of existing regulatory mechanisms. Under the Native Plant Protection Act (Division 2, Chapter 10, sec. 1900 *et seq.* of the Fish and Game Code) and the California Endangered Species Act (Division 3, Chapter 1.5, sec. 2050 *et seq.*), the California Fish and Game Commission listed *Erysimum teretifolium* as endangered in 1981. Though both the Native Plant Protection Act and the California Endangered Species Act prohibit the "take" of State-listed plants (Chapter 10, sec. 1908, and Chapter 1.5, sec. 2080), State law does not protect the plants from taking via habitat modification or land use change by the landowner. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant" (Chapter 10, sec. 1913). Although these State laws provide a measure of protection to the species, these laws are not adequate to protect the species in all cases. Numerous activities do not fall under the purview of this legislation, such as certain projects proposed by the Federal government and projects falling under State statutory exemptions. Where overriding social and economic considerations can be demonstrated, these laws allow project proposals to go forward, even in cases where the continued existence of the species may be jeopardized or where adverse impacts are not mitigated to the point of insignificance.

The California Environmental Quality Act requires that environmental documents disclose the full scope of impacts anticipated to sensitive resources within a project area. The initial documentation of a project in *Chorizanthe robusta* var. *hartwegii* habitat failed to include adequate information concerning the presence of and the potential impacts to this plant. A lawsuit settlement required that additional surveys of occupied and suitable but unoccupied habitat for the plant be completed (Jane Haines, Environmental Law Services, *in litt.*, 1992). However, the lawsuit failed to specify that the information was to be used in redesigning the project to provide adequate protection for the plant.

Part of the environmental review process under the California Environmental Quality Act for projects that result in the loss of sites supporting these plant species generally includes the development of mitigation plans. Such plans may involve establishing long-term protection for certain sites by designating them as "reserves," enhancing degraded sites to improve or extend suitable habitat, transplanting affected species to an off-site location, and/or creating artificial habitat. Proponents for the Glenwood Estates Development proposed a mitigation plan that calls for establishing reserves that would set aside 0.9 acre of habitat occupied by approximately 90 percent of the total number of *Chorizanthe robusta* var. *hartwegii* individuals, as well as an additional 6 acres of suitable but unoccupied habitat (APC International, Inc. 1992). Although the project proponents have the intention of setting aside the largest concentrations, and therefore the largest number of individuals of *C. robusta* var. *hartwegii*, the distribution of this plant is already so restricted that any loss would be considered biologically significant. A review of past mitigation measures applied to other species similar to *C. robusta* var. *hartwegii* in their very narrow distributions have indicated that such measures failed to adequately effect long-term protection. Frequently cited reasons include inadequate reserve size, inadequate buffer zones, and inappropriate adjacent land uses that result in the disruption of ecological processes affecting soil and water conditions and pollinator and seed disperser populations (Howald 1992). Furthermore, areas that currently support smaller concentrations of this plant or areas of suitable habitat that are currently unoccupied by the plant would not be protected from habitat alteration and would be lost for future recovery efforts.

Mitigation plans for State-listed species are typically formalized in a Mitigation Agreement between CDFG and the project proponent. Although *C. robusta* var. *hartwegii* is not currently State listed, CDFG attempted to secure a Mitigation Agreement because of its concern over the effects of the project to the plant. However, CDFG was not able to reach an agreement with the Glenwood Development Company. CDFG believes that the reserves, as delineated, will not be adequate to ensure long-term viability of the resources targeted for protection. Furthermore, no compensation was offered for the loss of resources that will not be avoided (Hunter, *in litt.*, 1993).

The city of Scotts Valley has regulatory authority over 90 percent of the lands within the proposed project area. They approved the project acknowledging that it would have unmitigable impacts to *Chorizanthe robusta* var. *hartwegii* by issuing a statement of overriding considerations. Although the California Environmental Quality Act process allows for such approval, the goal of requiring mitigation that secures long-term protection for plants that qualify for State listing has not been achieved. The Santa Cruz County Planning Commission, which has regulatory authority over the remaining 10 percent of the lands within the proposed project area, recently rejected approval of the project. This decision, however, is being appealed by the project proponent to the County Board of Supervisors.

E. Other natural or manmade factors affecting its continued existence. The introduction of non-native species to coastal dunes for the purpose of sand stabilization adversely affected native dune flora, probably including *Chorizanthe robusta* var. *robusta* and *Chorizanthe pungens* var. *pungens*. Such introduced species as European beach grass (*Ammophila arenaria*), sea-fig (*Carpobrotus* ssp.), and iceplant (*Mesembryanthemum* ssp.) invaded dune habitats and in many cases outcompeted the native flora. While public agencies are now aware of the adverse impacts of introducing non-native species, efforts to restore dune habitats with native species may also

result in further impacts to sensitive plants, if not done properly.

As currently proposed, the Glenwood Estates Development would destroy numerous small colonies of *Chorizanthe robusta* var. *hartwegii*, but would set aside several reserves for the densest concentrations of the plant. These reserves would be left as small islands within the golf course portion of the project. Grading of adjacent portions of the course may alter surface and subsurface hydrologic processes of these remaining reserves. In addition, the reserves may be affected by the application of pesticides, herbicides, and fertilizers on the adjacent course. Application of such chemicals may alter the balance of nutrients in the soil and may affect the ability of *C. robusta* var. *hartwegii* to survive, either directly or through competition with exotic species that may be favored by application of these chemicals (Edmondson 1987; Carl Wishner, botanist, pers. comm., 1993).

Typically, annuals and other monocarpic plants (individuals that die after flowering and fruiting), such as the four plants that are the subject of this final rule, are vulnerable to random fluctuations or variation (stochasticity) in annual weather patterns and other environmental factors (Huenneke *et al.* 1986). All four of the plants are restricted to habitats of limited distribution within a small geographic range. All but *Chorizanthe pungens* var. *pungens* are currently vulnerable to stochastic extinction due to their small and isolated populations. *Chorizanthe robusta* var. *hartwegii* and *Chorizanthe robusta* var. *robusta* are particularly threatened by this factor as *C. robusta* var. *hartwegii* is found on Santa Cruz mudstones and Purisima sandstones within a 1-mile diameter in Scotts Valley in the Santa Cruz Mountains and *C. robusta* var. *robusta* is found in only three locations over a 12-mile range in southern Santa Cruz County.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to make this rule final. Because three of the four plants are threatened by one or more of the following factors—urban and agricultural development, recreational use, sand mining, dune stabilization projects, or extinction from stochastic events—the preferred action is to list *Chorizanthe pungens* var. *hartwegiana*, *Chorizanthe robusta* (inclusive of vars. *hartwegii* and *robusta*), and *Erysimum teretifolium* as endangered. Other alternatives to this action were considered but not preferred because not listing these species at all or listing these species as threatened would not provide adequate protection and would not be in keeping with the purposes of the Act.

Chorizanthe pungens var. *pungens* is also threatened by the same factors listed above, as well as by ongoing military activities on the Fort Ord Army Base and its pending disposal. However, the wider range and greater number of populations and individuals of this species indicate that it is not now in danger of extinction throughout a significant portion of its range, as are the other three species, but is likely to become endangered within the foreseeable future. Therefore, the preferred action is to list *C. pungens* var. *pungens* as threatened. Not listing this species would not provide adequate protection and would not be in keeping with the purposes of the Act. For reasons discussed below, the Service is not designating critical habitat for these species at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Section 4(b)(6)(C) further indicates that a concurrent critical habitat designation is not required if the Service finds that a prompt determination of endangered or threatened status is essential to the conservation of the involved species or that critical habitat is not then determinable. The Service finds that designation of critical habitat for *Chorizanthe robusta* and *Chorizanthe pungens* var. *pungens* is prudent but presently not determinable and that designation of critical habitat for *Chorizanthe pungens* var. *hartwegiana* and for *Erysimum teretifolium* is not prudent.

The Service will propose designation of critical habitat for certain populations of *Chorizanthe robusta* and *Chorizanthe pungens* var. *pungens* that would likely not be imperiled by the threat of vandalism, collecting, or other human activities. Section 7(a)(2) requires Federal agencies to insure that their activities are not likely to destroy or adversely modify critical habitat of a listed species. This stipulation for Federal agencies is in addition to the requirement to insure that their actions do not jeopardize the continued existence of federally listed species. Therefore on lands where Federal actions, funding, authorizations, or licensing occurs, critical habitat would provide an added benefit to the conservation of these species. On non-Federal land, the designation of critical habitat may result in increased awareness of the need for protection. The designation of critical habitat could be useful for State landowners because they could use the designation to identify areas of special concern and to help establish priorities for their own land management.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service must evaluate the effects of activities that occur within the ranges of these plants. The Service must gather data on precise habitat needs and ownership boundaries to be able to precisely define the critical habitat of these two plant taxa. In addition, the Service must analyze the economic impacts that could result from the designation of particular areas as critical habitat. Designation of critical habitat for *Chorizanthe robusta* and *Chorizanthe pungens* var. *pungens* is currently not determinable due to the need for this type of information. A proposal to designate critical habitat at this time would delay this final rule to list the species as threatened or endangered. The Service believes that a prompt determination of endangered or threatened status for these species is essential to ensure the benefits of conservation measures provided to species upon listing under the Act. Once the Service has gathered the necessary data, it will publish a proposal to designate critical habitat for *Chorizanthe robusta* and *Chorizanthe pungens* var. *pungens*.

Each of the four plants face anthropogenic threats (see Factor A and Factor B in "Summary of Factors Affecting the Species"), and many of the remaining populations of these species occur on privately owned property for which development is proposed or on which vandalism has already been noted. Due to the small number of populations of *C. pungens* var. *hartwegiana* and *Erysimum teretifolium* and the documented vandalism and proposed development of their habitats, the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make them more vulnerable to such incidents and could contribute to their decline. In addition, no known Federal action, authorization, licensing, or funding on these lands exist, hence a designation of critical habitat would provide no additional protection under section 7 of the Act. Therefore, it would not be prudent to designate critical habitat for these two species. The appropriate agencies and landowners can be notified of the locations and management needs

of these plants. Protection of these populations will be addressed through the recovery process.

Available Conservation Measures

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

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

Federal activities potentially impacting one or more of the four taxa include road and building construction projects and perhaps waterfowl management practices on Federal land. Populations of one of the four plants occur, at least in part, on Federal land. Fort Ord, which is managed by the Department of Defense, supports populations of *Chorizanthe pungens* var. *pungens* on the western and southern portion of the base. The Department of Defense indicated that closure and transfer of the base at Fort Ord will be phased over many years. Therefore, potential impacts to *C. pungens* var. *pungens* as a result of the land transfer cannot be determined at this time. *C. pungens* var. *pungens* is also thought to occur on the Salinas River National Wildlife Refuge, which is managed by the U.S. Fish and Wildlife Service; currently no activities occur on the Refuge that are known to affect the *C. pungens* var. *pungens*.

Activities relating to the discharge of fill materials into waters of the United States and other special aquatic sites are regulated by section 404 of the Clean Water Act and may affect *Chorizanthe pungens* var. *hartwegiana* and *Erysimum teretifolium* where they occur adjacent to sand quarry operations. The pending proposal to develop the two Glenwood Estates parcels in Scotts Valley may also involve the discharge of fill materials. The Army Corps of Engineers would be required to consult with the Service on any section 404 permitting actions that may affect these species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species and 17.71 and 17.71 for threatened species set forth a series of general prohibitions and exceptions that apply to all endangered or threatened plants. With respect to the four plant taxa that are the subject of this final rule, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species, in this case *Chorizanthe pungens* var. *pungens*, are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for listed plants, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the four plant species are not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, room 420C, 4401 North Fairfax Drive, Arlington, Virginia 22203–3507 (703/358–2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Connie Rutherford, Ventura Field Office (see **ADDRESSES** section), telephone 805–644–1766.

List Subjects in 50 CFR Part 17

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

Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

PART 17—[AMENDED]

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

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

2. Amend § 17.12(h) by adding the following, in alphabetical order under the families "Brassicaceae—Mustard family" and "Polygonaceae—Buckwheat family," to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Brassicaceae—Mustard family:						
*	*	*	*	*	*	
Erysimum teretifolium	Ben Lomond wallflower	U.S.A. (CA)	E	528	NA	NA
*	*	*	*	*	*	
Polygonaceae—Buckwheat family:						
*	*	*	*	*	*	
Chorizanthe pungens var. hartwegiana	Ben Lomond spineflower	U.S.A. (CA)	E	528	NA	NA
*	*	*	*	*	*	
Chorizanthe pungens var. pungens	Monterey spineflower	U.S.A. (CA)	T	528	NA	NA
*	*	*	*	*	*	
Chorizanthe robusta	Robust spineflower	U.S.A. (CA)	E	528	NA	NA
*	*	*	*	*		

Dated: January 31, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–2547 Filed 2–3–94; 8:45 am]

BILLING CODE 4310–55–P

federal register

Friday
February 4, 1994

Part IV

Department of Justice

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment and Instruction of Inmates; Emergency Signaling Devices and Victim/Witness Notification; Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment and Instruction of Inmates; Emergency Signaling Devices and Victim/Witness Notification

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rule.

SUMMARY: In this document, the Bureau of Prisons is removing from its regulations provisions regarding emergency signaling devices and unnecessary references to statutory and departmental authority. Provisions for placement of emergency signaling devices are adequately covered in the National Fire Code (NFC) standards. Adherence to NFC standards, the provision of 24-hour staff coverage, and the conditions of confinement in Bureau institutions obviate the need for further regulation on emergency signaling devices. References to statutory and departmental authority for victim and/or witness notification are being incorporated into the authority citation for the part and are therefore removed from the regulations. These amendments are editorial in nature and represent no change in Bureau policy.

EFFECTIVE DATE: February 4, 1994.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Emergency Signaling Devices—Inmate Housing Units and on Victim and/or Witness Notification. A final rule on Emergency Signaling Devices was published in the **Federal Register** on June 1, 1983 (48 FR 24625), and a final rule on Victim and/or Witness Notification was published April 30, 1984 (49 FR 18386) and was amended February 21, 1990 (55 FR 6178).

All Bureau institutions conform to applicable standards of the National Fire Code, which include provision for the placement of emergency signaling devices in all institution housing units. Bureau regulations in 28 CFR 551.140 had stipulated that such devices be accessible to inmates in locked dormitories which do not have 24-hour staff coverage and in housing units with rooms or cells (both single and multiple occupancy) lacking 24-hour staff coverage. The only Bureau institutions with dormitories or housing units which do not have 24-hour staff coverage are in Federal Prison Camps. Staff coverage is provided in these units at night and at other times when inmates are permitted in their quarters. Because of the lessened security needs in Federal Prison Camps, dormitories and housing units in these institutions are not locked. Consequently, the provisions in § 551.140 serve no practical purpose and are therefore being removed.

Bureau regulations in 28 CFR 551.150 include references to the Victim and Witness Protection Act of 1982 and to the Attorney General's guidelines for victim and witness assistance. These references are more appropriately placed in the authority citation for the part and are accordingly removed from the text of the regulation. The newly revised authority citation for 28 CFR part 551, which already included reference to the pertinent provisions of the Victim and Witness Protection Act of 1982 (18 U.S.C. 1512), now includes reference to the most recent revision of the Attorney General's guidelines for victim and witness assistance.

Because these amendments are administrative in nature and impose no new restrictions on inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 551

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 551 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 551—MISCELLANEOUS

1. The authority citation for 28 CFR part 551 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99–500 (sec. 209); 28 CFR 0.95–0.99; Attorney General's August 6, 1991 Guidelines for Victim and Witness Assistance.

Subpart L—[Removed and Reserved]

2. Subpart L, consisting of § 551.140, is removed and reserved.

§ 551.150 [Amended]

3. Section 551.150 is amended by removing the second sentence.

[FR Doc. 94–2600 Filed 2–3–94; 8:45 am]

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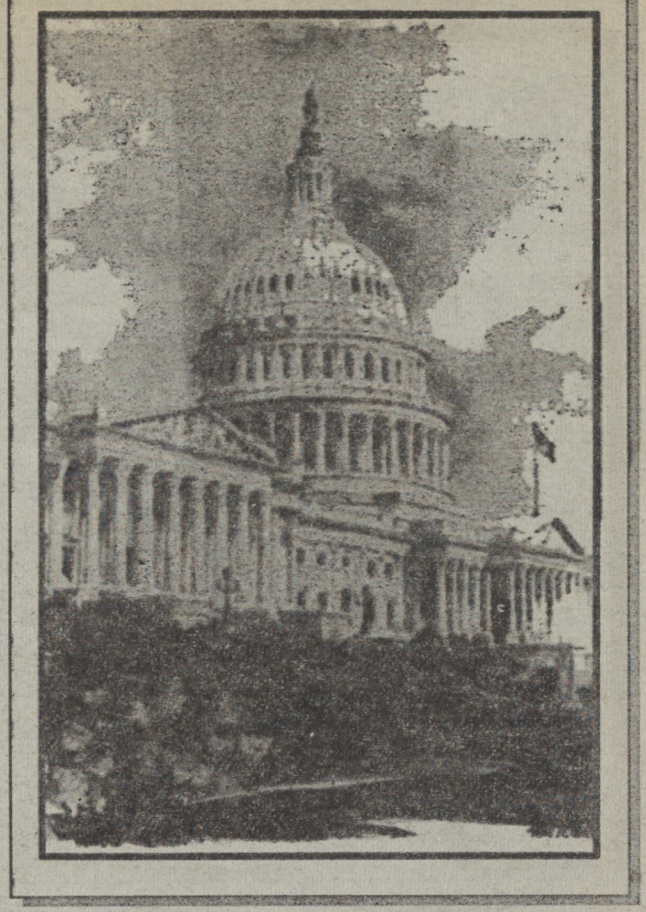

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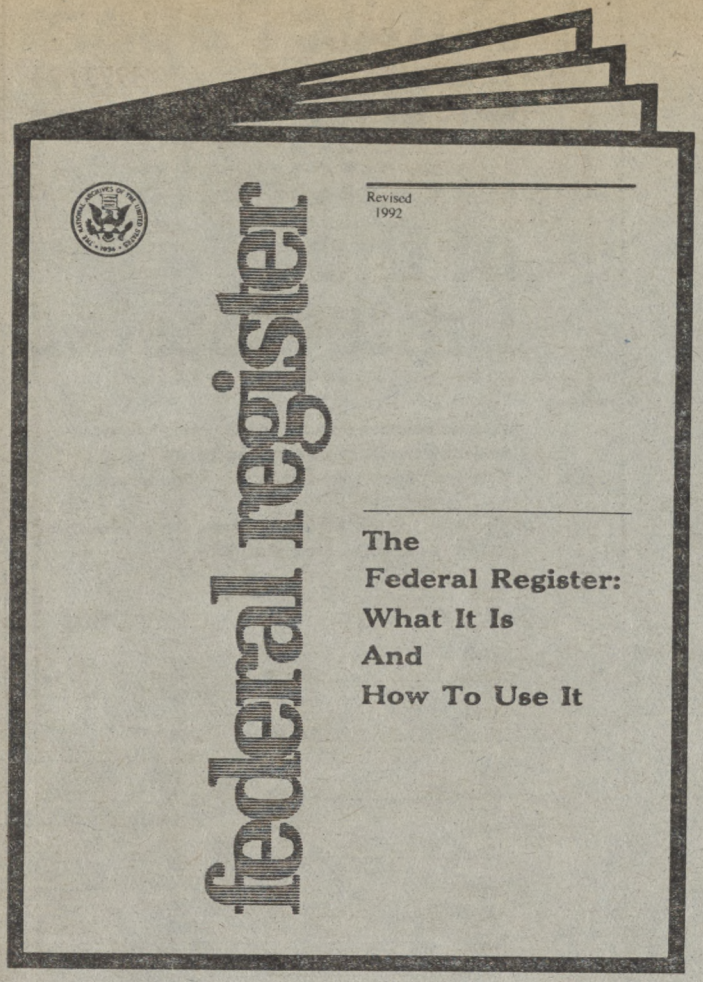

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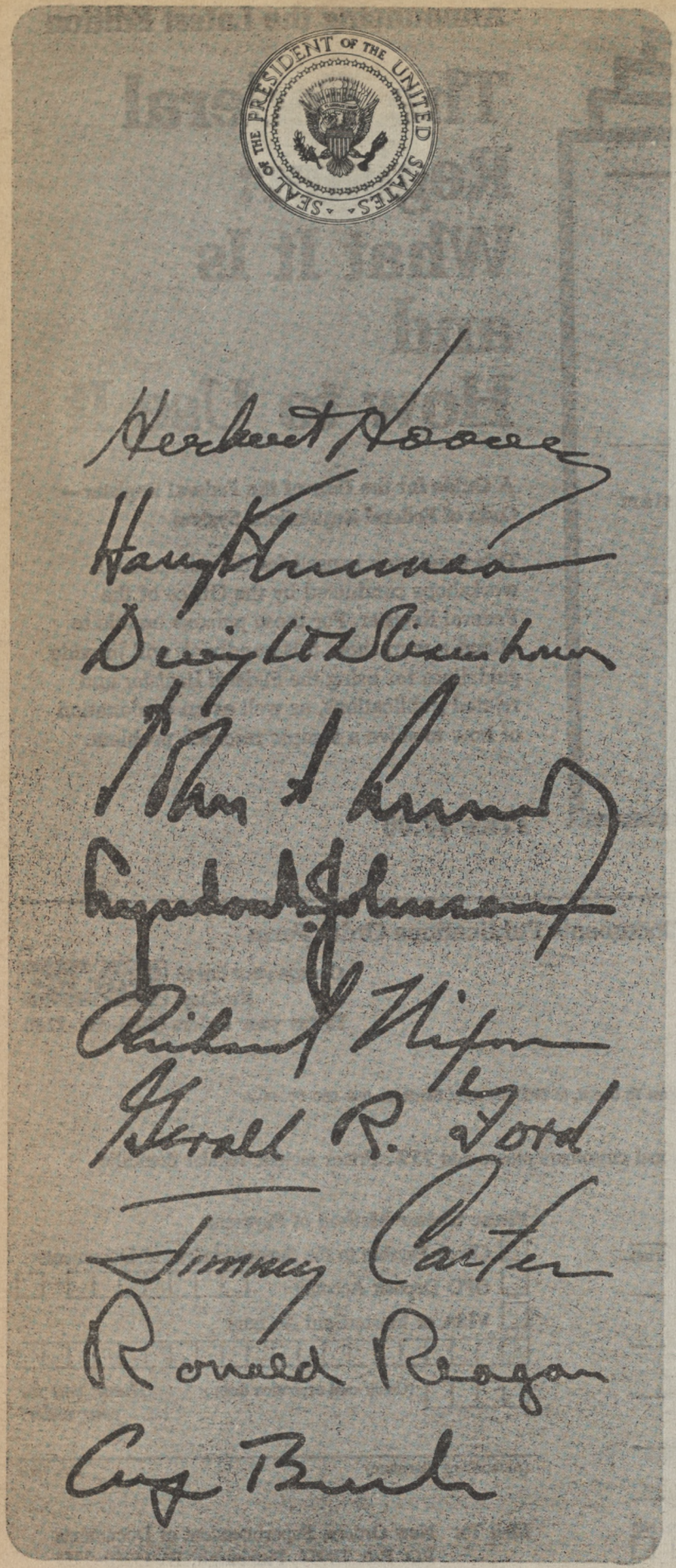

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