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Pages 35191-35282

# Federal Register

Monday  
September 12, 1988

**Briefings on How To Use the Federal Register—**  
For information on briefings in Washington, DC, and  
Chicago, IL, see announcement on the inside cover of this  
issue.



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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

<b>FOR:</b>	Any person who uses the <b>Federal Register</b> and Code of Federal Regulations.
<b>WHO:</b>	The Office of the <b>Federal Register</b> .
<b>WHAT:</b>	Free public briefings (approximately 3 hours) to present:
	1. The regulatory process, with a focus on the <b>Federal Register</b> system and the public's role in the development of regulations.
	2. The relationship between the <b>Federal Register</b> and Code of Federal Regulations.
	3. The important elements of typical <b>Federal Register</b> documents.
	4. An introduction to the finding aids of the FR/CFR system.
<b>WHY:</b>	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

<b>WHEN:</b>	September 13; at 9:00 a.m.
<b>WHERE:</b>	Office of the <b>Federal Register</b> , First Floor Conference Room, 1100 L Street NW., Washington, DC
<b>RESERVATIONS:</b> Doris Tucker, 202-523-3419	

### CHICAGO, IL

<b>WHEN:</b>	September 19; at 9:15 a.m.
<b>WHERE:</b>	Room 3320, Federal Building, 230 S. Dearborn St., Chicago, IL
<b>RESERVATIONS:</b> Call the Federal Information Center, Chicago 312-353-5692	

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in the Reader Aids section at the end of this issue.

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# Presidential Documents

Title 3—

Proclamation 5854 of September 8, 1988

The President

National D.A.R.E. Day, 1988

By the President of the United States of America

**A Proclamation**

Avoidance of illegal drug use and alcohol abuse must be emphasized early and often to children and young people. Drug Abuse Resistance Education (D.A.R.E.) is a program specifically designed to reach children. It is currently provided in 35 States and is taught by veteran police officers who have direct experience with criminals and victims of drug abuse.

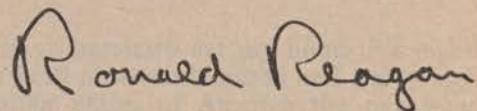
D.A.R.E. is concerned with children from kindergarten through junior high school and with their parents. It offers information and wise counsel on resisting peer pressure and avoiding illegal drug use and alcohol abuse. Police officers, experienced in the effects of drug and alcohol abuse, are trained to help students recognize the risks of drugs and to learn strategies for handling stress without resorting to dangerous substances.

D.A.R.E. instruction programs have already touched the lives of more than a million and a half students and contributed to improved study habits, better grades, and greater respect for authority. In short, this positive program of drug abuse prevention is effective.

In recognition of this successful program, the Congress, by Senate Joint Resolution 295, has designated September 15, 1988, as "National D.A.R.E. Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September 15, 1988, as National D.A.R.E. Day. I call upon the people of the United States and, in particular, parents, students, school administrators, and law enforcement officials, to observe this day with appropriate activities to increase awareness of D.A.R.E. throughout our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.





## Presidential Documents

### Proclamation 5855 of September 8, 1988

### National Adult Day Care Center Week, 1988

By the President of the United States of America

#### A Proclamation

The number of older Americans continues to grow, thanks in part to advances in medical care and technology and better understanding of the ways nutrition, behavior, and environment affect health. Most senior citizens are active in their communities; but some cannot be so. For them we seek ways to continue or initiate every possible measure of independence, dignity, and integration in family and community life. We do so not only out of recognition of all that today's older citizens have achieved over the years, but also because of our long national history and heritage of respect for the elderly and reverence for the individual dignity and worth inherent in each of us alike.

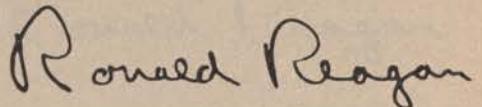
One way that Americans are helping older citizens is by establishing adult day care centers. Some 1,200 such centers now serve older Americans who are frail, disabled, or requiring regular medical care and who might otherwise need care in a long-term facility. These centers often exist in hospitals, nursing homes, and senior centers; they offer a range of programs from health services to therapy, meals, and social activities. The centers benefit the elderly—and give a vital assist to dedicated family caregivers so they can meet their own needs.

The number of adult day care centers has grown rapidly over the past two decades, and State and Area Agencies on Aging, as well as social service and health care agencies, support the creation of additional centers across our country. Concerned citizens can and should work with their States and Area Agencies on Aging to see that their community has one of these truly beneficial adult day care center programs.

The Congress, by Public Law 100-344, has designated the week beginning on the third Sunday of September 1988 as "National Adult Day Care Center Week" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning the third Sunday of September 1988 as National Adult Day Care Center Week, and I call upon the people of the United States to observe this occasion with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.





## Presidential Documents

### Proclamation 5856 of September 8, 1988

### National Farm Safety Week, 1988

By the President of the United States of America

#### A Proclamation

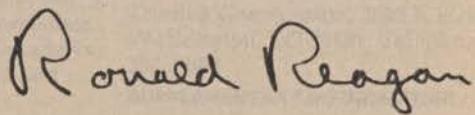
All of us, and people around the world as well, appreciate the men and women of American agriculture whose knowledge, skills, and hard work enable them to provide so much of our food and fiber. Because of the high rates of occupational and nonoccupational mishaps they incur, however, we also express our concern for the safety and health of these fellow citizens and their children and our pride in their efforts in behalf of farm and ranch safety as they go about daily living.

Fortunately, many disabling and fatal work and off-the-job injuries and illnesses are preventable, and in simple and practical ways. We can invariably work, drive, and live safely by taking full advantage of protective equipment and other safeguards and by using extra care throughout the day. Many engineering improvements in the tools of agriculture have been made through the years, and they have been a great boon. But individuals also make a difference in eliminating risks from agriculture and rural living by their willingness and ability to exercise care and expertise in every daily activity, whether at work or play, whether at home or on the roads and highways.

During National Farm Safety Week and throughout the year, we should express our esteem and gratitude to all who live and work on farms and ranches for their inestimable contributions to our way of life and for their continued efforts in support of safety and health.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 18 through September 24, 1988, as National Farm Safety Week. I urge all who live and work on farms or ranches to take necessary precautions for safety and health, both on the job and off, both at home and on the roads. I also urge all who serve and supply agricultural producers to support community safety and health efforts in every way. I encourage all Americans to take part in appropriate events and activities in observance of National Farm Safety Week and to note all that Americans in agriculture achieve for our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.





# Rules and Regulations

This section of the **FEDERAL REGISTER** contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first **FEDERAL REGISTER** issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 910

[Lemon Reg. 630]

#### Lemons Grown in California and Arizona; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** Regulation 630 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 311,600 cartons during the period September 11 through September 17, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

**DATES:** Regulation 630 (§ 910.930) is effective for the period September 11 through September 17, 1988.

**FOR FURTHER INFORMATION CONTACT:**

Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the FRA is to fit regulatory action to the scale of business subject to such actions in order

that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674) as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1988-89. The committee met publicly on September 7, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

#### List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

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For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.930 is added to read as follows:

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

#### § 910.930 Lemon Regulation 630.

The quantity of lemons grown in California and Arizona which may be handled during the period September 11, 1988, through September 17, 1988, is established at 311,600 cartons.

Dated: September 8, 1988.

Charles R. Brader,

*Director, Fruit and Vegetable Division.*

[FR Doc. 88-20800 Filed 9-8-88; 4:39 pm]

BILLING CODE 3410-02-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 146

#### Records Maintained on Individuals

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final Rule.

**SUMMARY:** The rule revises the Commodity Futures Trading Commission's Privacy Act regulations so as to exempt from certain provisions of the Privacy Act a new system of records entitled "Exempted Closed Commission Meetings." The Commission issued a notice of this system of records on June 17, 1988. 53 FR 22686.

**EFFECTIVE DATE:** October 12, 1988.

**FOR FURTHER INFORMATION CONTACT:**

Ellyn S. Roth, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-9880.

**SUPPLEMENTARY INFORMATION:**

#### Background

On June 17, 1988, the Commodity Futures Trading Commission

("Commission") issued a notice of the existence of two systems of records, CFTC-30 ("Open Commission Meetings") and CFTC-31 ("Exempted Closed Commission Meetings"). In compliance with the requirements of the Government in the Sunshine Act, 5 U.S.C. 552b ("Sunshine Act") and the Commission's regulations promulgated to implement the Sunshine Act, 17 CFR Part 147, the Commission maintains electronic recordings, transcripts or sets of minutes of all closed Commission meetings or closed portions of Commission meetings. It is also the Commission's practice to record its meetings which are held open to public observation. With respect to all of its meetings, whether open or closed, the Commission maintains indices of the meetings, organized by year and subdivided by subject. The indices contain the names of some individuals, and the corresponding recordings, transcripts or minutes contain some information about those individuals.

These indices and records constitute two systems of records under the Privacy Act of 1974, 5 U.S.C. 552a. One system consists of the recordings of Commission meetings open to the public. The other system consists of the recordings of closed Commission meetings, which, as explained below, the Commission proposed to exempt from certain provisions of the Privacy Act.

#### Amendment to Privacy Act Regulations

On June 17, 1988 the Commission published for public comment a proposal to amend § 146.12 of its regulations in order to exempt the system containing information on closed Commission meetings from certain notification and access provisions of the Privacy Act. Pursuant to Section (k) of the Privacy Act, 5 U.S.C. 552a(k), an agency may promulgate rules to exempt a system of records from certain notification and access requirements of the Privacy Act if the information in the system falls under any of the enumerated categories. The Commission believes that much of the information in this system falls under the categories set forth in Sections (k)(2) and (k)(5). The information in this system includes (a) investigatory materials compiled for law enforcement purposes whose disclosure the Commission has determined could impair the effectiveness and orderly conduct of the Commission's regulatory, enforcement and contract market surveillance programs (Section (k)(2)) or (b) investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for employment with the Commission to

the extent that it identifies a confidential source. (Section (k)(5)).

Accordingly, the Commission proposed that 17 CFR § 146.12 be amended so to exempt those records which fall within the categories enumerated in Sections (k)(2) and (k)(5) of the Privacy Act from the notification procedures, record access procedures and record contest procedures set forth in the system notices of other record systems, and from the requirement that the sources of record in the system be described.

The Commission received no comments in response to the notice of proposed rulemaking and has decided to adopt the rule as proposed.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the impact of proposed rules on small entities. It is not anticipated that this rule would impose any new burden on small entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that rule promulgated herein would not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 17 CFR Part 146

Privacy Act, Records maintained on individuals.

In consideration of the foregoing, and pursuant to the authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and in the Privacy Act, 5 U.S.C. 552a, the Commission hereby amends Part 146 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

#### PART 146—RECORDS MAINTAINED ON INDIVIDUALS

1. The authority citation for Part 146 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a); Sec. 101(a), Pub. L. 93-463, 88 Stat. 1389 (7 U.S.C. 4a(j)).

2. Section 146.12(a) is amended by revising the second sentence to read as follows:

#### § 146.12 Exemptions.

(a) \* \* \* Materials exempted under this paragraph are contained in the system of records entitled "Exempted Investigatory Records" and/or in the system of records entitled "Exempted Closed Commission Meetings." \* \* \*

3. Section 146.12(b) is amended by revising the last sentence to read as follows:

(b) \* \* \* Materials exempted under this paragraph are included in the

system of records entitled "Exempted Employee Background Investigation Material" and/or in the system of records entitled "Exempted Closed Commission Meetings."

Issued in Washington, DC, on September 6, 1988 by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 88-20586 Filed 9-9-88; 8:45 am]

BILLING CODE 6351-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Family Support Administration

#### 45 CFR Part 233

##### Aid to Families With Dependent Children—Treatment of Utility Payments by Applicants or Recipients Living in Certain Federally Assisted Housing

**AGENCY:** Family Support Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** This regulation implements section 221 of Pub. L. 98-181 of the Domestic Housing and International Recovery and Financial Stability Act enacted November 30, 1983, as amended by section 102 of Pub. L. 98-479, the Housing and Community Development Technical Amendments Act of 1984, enacted October 17, 1984. The above legislation addresses the problem of the treatment of certain utility payments for Aid to Families with Dependent Children (hereafter referred to as AFDC) families living in dwellings assisted by the U.S. Department of Housing and Urban Development (hereafter referred to as HUD). The legislation was designed to provide these families with some money in their AFDC grant for rent. The categories to which the legislation applies are applicants or recipients who live in Federal housing assisted under the United States Housing Act of 1937, as amended, or section 236 of the National Housing Act. This includes all Indian and public housing, section 8 rental housing, and section 236 rental assistance housing.

**EFFECTIVE DATE:** September 12, 1988.

##### FOR FURTHER INFORMATION CONTACT:

Ms. Diann Dawson, Room B-428, Transpoint Building, 2100 Second Street SW., Washington, DC 20201, telephone 202-245-3290.

**SUPPLEMENTARY INFORMATION:****Timing and Form of Regulation**

On August 27, 1987, a Notice of Proposed Rulemaking for the Aid to Families with Dependent Children program was published in the Federal Register (52 FR 32323-32325). It proposed the same policy as this final rule implements.

**Background**

An AFDC family living in HUD-assisted housing is required to contribute an amount for the cost of its housing. If the landlord pays for the utilities, the family makes its required contribution as a single payment to either the landlord or the public housing agency. That payment is considered a rental or shelter payment by AFDC. If the tenant pays for the utilities, HUD's determination of the family's required housing expenses includes: (1) An amount the family is to pay the landlord or the public housing agency and (2) an amount (which is a reasonable estimate) that the family is expected to pay the utility company. HUD refers to the amount in (2) as the "utility allowance." (Note: This amount is determined by either HUD or the appropriate public housing authority, pursuant to Federal law. The utility allowance may be for one or more utilities. For purposes of this regulation, utility payment can mean payment to more than one utility company. In the same way, utility company may be considered plural.) In such cases, the HUD-assisted family makes its utility payment directly to the utility company and pays the remainder of its required contribution to the landlord or public housing agency. When the family's required housing contribution is less than or equal to HUD's estimate of reasonable utility costs, HUD requires the family to pay all of its required housing contribution to the utility company and not make any direct payment to the landlord or the public housing agency.

The following discussion illustrates these principles. In each case, the HUD estimate of utilities that is used in computing the family's required contribution is \$110. In Case A, the family's required contribution is \$120. The family pays \$110 to the utility company and \$10 to the landlord or housing authority. In Case B, the family's required contribution is \$110. Therefore the family pays all of its \$110 to the utility company. In Case C, the family's required contribution is \$80. In this example, the family pays all of the \$80 to the utility company.

In addition, HUD provides the family \$30 (the difference between the \$110 and the \$80) to pay the utility company.

These offsets between utility estimates and required contributions are done to minimize multiple payments between recipients, HUD, and the utility companies. For HUD's purpose, the family contribution in Case B and Case C does in fact represent payment for both rent and utilities. HUD's instruction to a family to pay their contribution to a utility company is merely for HUD's convenience. Since the family is, in fact, making some payment to the landlord in Case A, this regulation does not apply, and for AFDC purposes, \$110 is considered to be payment for utilities and \$10 is considered to be for rent.

Under the AFDC program, financial eligibility and the amount of assistance are determined in accordance with a Statewide standard of need. The standard represents a money amount as defined by the State for those items of living costs that the State wishes to recognize as essential for applicants and recipients of the AFDC program. The money amount of the standard for these items may be expressed as one flat amount by family size, that is, a specified dollar amount for all items.

The money amount of the standard may also be expressed as flat amounts for certain groups of need items or as amounts for each individual item in the need standard or as a combination of both. Some States have elected to treat shelter costs as a separate item which is included only where the family actually incurs a shelter expense. In some of these States verification of housing costs results in the inclusion of a standard shelter allowance in the AFDC grant. Others of these States include an amount for shelter on an "as paid" basis subject to a maximum. The usual terminology for this latter situation is an AFDC standard that provides for "shelter as paid to a maximum."

As stated above, for AFDC grant purposes, there are some States that provide an amount for shelter solely upon evidence that such expense is incurred by the family. In those States, a HUD-assisted AFDC family would not receive an amount in their AFDC grant for shelter if its entire "total tenant payment" (HUD's term for the family's contribution) was made directly to the utility company. This has significantly disadvantaged some families. Payment for shelter is often the largest part of the AFDC payment. The intent of this provision and its subsequent amendment was to remedy this situation. As a result, when the entire total tenant payment of the AFDC family is paid to the utility company, the amount of the total tenant payment shall be considered a shelter payment for

AFDC purposes. States still have the option to count HUD subsidies as income as permitted under section 402(a)(7)(C) of the Social Security Act and to prorate shelter and utilities as permitted under section 412 of the Social Security Act.

**Discussion of Section 221 of Pub. L. 98-181 as Amended by Pub. L. 98-479**

As specified in the statute, only those AFDC applicants and recipients living in Federally-assisted housing under the United States Housing Act of 1937, as amended, and section 236 of the National Housing Act are to be included. Housing assisted under the United States Housing Act of 1937 and section 236 of the National Housing Act means all Federal public and Indian housing programs, section 8 rental housing, and section 236 rental assistance housing. Persons receiving HUD mortgage subsidies are not included.

The majority of States remain unaffected by the provision. This regulation does not apply to States in which all AFDC applicants or recipients already receive an AFDC grant amount which includes a portion for shelter. In addition, in the other States, this regulation will not apply to any AFDC families living in HUD-assisted housing who actually make some direct payment to a landlord or public housing authority. In this situation, the usual AFDC rules apply.

This legislation is addressed to those States which include an amount in the grant for rent only upon evidence of that expense being incurred by the assistance unit. In some of these States, evidence has meant documentation of payment made to the landlord. Prior to this legislation, AFDC assistance units in some of these States would not have received an amount for rent in their grant because the entire total tenant payment for rent and utilities was paid to the utility company.

Now, under the provisions of this new regulation, any HUD-assisted AFDC family shall have all or a part of its utility payment considered a rental payment for AFDC if the family pays its entire total tenant payment to the utility company. For purposes of the AFDC grant calculation, only the amount HUD designates as the family's "total tenant payment" shall be considered a rental or shelter payment. Payments in excess of the amount of the total tenant contribution which the AFDC unit may make to a utility company will not be considered as rental payments. This is because the statute provides that only those utility payments which are made

in lieu of a rental payment shall be considered as shelter payments. The maximum payment that could be made to a landlord as rent is the "total tenant payment." Any remaining amount above the "total tenant payment" will be considered a payment for utilities. Of course, the amount the AFDC State agency includes in the grant for shelter cannot exceed the State's AFDC maximum for shelter as authorized in the State plan.

Finally, the applicable utility payments that may be considered as rental payments are payments for gas, electricity, water, heating fuel, sewerage systems, and trash and garbage collection. Not included in this list of utilities are telephone and cable television costs. This is the same definition as is used by HUD to compute a family's required housing expense under the various HUD-assisted programs.

#### Discussion of Comments

Comments were received from four interested parties regarding the proposed rule on the treatment of utility payments by AFDC applicants and recipients living in certain federally-assisted housing. Comments in support of the regulation were received from one State welfare agency and one local welfare agency. In addition, comments were received from the General Counsel of the Federal Department of Housing and Urban Development and a Commissioner of a State welfare agency. We have made some minor changes to the preamble for clarification purposes. No policy changes have been made.

The comments we received are discussed below:

*Comment:* At the end of the fourth line of proposed section 233.20(a)(2)(ix), the word "the" should be "be".

*Response:* The commenter is correct that an error was made in publication and the word should be "be". A correction is made in this final rule.

*Comment:* The proposed regulation provides that utility payments are treated as shelter payments when the utility allowance equals or exceeds the total tenant payment, and that this is contrary to the purpose of the statute and can result in duplicate payments.

*Response:* As explained above, in some States Families need to present evidence of shelter payments in order to receive the shelter component in their AFDC grants and they will be unable to present such evidence with their total tenant payment is made to the utility company. Accordingly, in order to provide relief to these families, we believe that it is reasonable to interpret the statute as providing that the total

tenant payment is for shelter when it equals or does not exceed the utility allowance. We recognize that in some cases this could result in duplicate payments to the extent that both AFDC and the public housing authority are providing payments for either rent or utilities. However, it should be noted that States are still permitted to count HUD subsidies as income under section 402(a)(7)(C) of the Social Security Act.

*Comment:* In the preamble, the distinction between whether an AFDC family lives in a dwelling with common or individual utility metering is not important for this regulation. The distinction that should be made is between situations where the landlord pays for the utilities and where the tenant pays the utility company directly.

*Response:* We agree. Accordingly we have revised the discussion in the preamble to differentiate between situations where the landlord pays for the utilities and the tenant pays for them.

*Comment:* The preamble states that HUD does not specify the portion of a family's contribution that is for rent and for utilities. This is not totally accurate in so far as both a total tenant payment and a utility allowance are established.

*Response:* We agree and the misleading sentence has been omitted.

#### Regulatory Procedures

##### Executive Order 12291

This regulation does not meet any of the three criteria which require a regulatory impact analysis under Executive Order 12291. Specifically, this regulation will not have any annual effect on the economy of more than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The estimated Federal costs resulting from the legislative provisions which this regulation implements are \$2 million per year. These program costs result from implementing the Domestic Housing and International Recovery and Financial Stability Act of 1983 (Pub. L. 98-181) as amended by the Housing and Community Development Technical Amendments of 1984 (Pub. L. 98-479) and not the result of actions taken under the discretionary latitude of the Secretary. It is expected that the additional \$2 million in Federal AFDC

costs will be offset by recoupment in HUD subsidies and Food Stamp allocations.

#### Paperwork Reduction Act

There will be no new reporting or recordkeeping requirements imposed on the public or the States which would require clearance by the Office of Management and Budget (OMB).

#### Regulatory Flexibility Act

We certify that this regulation will not have a significant impact on a substantial number of small entities because it primarily affects State governments and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

This regulation is issued under the authority of the Domestic Housing and International Recovery and Financial Stability Act, section 221 of Pub. L. 98-181, as amended by section 102 of Pub. L. 98-479, and section 1102 of the Social Security Act.

(Catalog of Federal Domestic Assistance Program 13.780, Public Assistance Payments Maintenance Assistance)

#### List of Subjects in 45 CFR Part 233

Aliens, Grant programs/social programs, Public assistance programs, Reporting and recordkeeping requirements.

Date: July 28, 1988.

Wayne A. Stanton,  
Administrator of Family Support Administration.

Approved: August 22, 1988.  
Otis R. Bowen,  
Secretary of Health and Human Services.

#### PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY

Part 233 of Chapter II, Title 45 Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 233 is revised to read as follows and all other authority citations which appear throughout Part 233 are removed:

Authority: Secs. 1, 402, 406, 407, 1002, 1102, 1402, and 1602 of the Social Security Act (42 U.S.C. 301, 602, 606, 607, 1202, 1302, 1352 and 1382 note), and Sec. 6 of Pub. L. 94-114, 89 Stat. 579 and Title XXIII of Pub. L. 97-35, 95 Stat. 843, and Pub. L. 97-248, 96 Stat. 324, and Pub. L. 99-603, 100 Stat. 3359, and Sec. 221 of Pub. L. 98-181, as amended by Sec. 102 of Pub. L. 98-479 (42 U.S.C. 602 note).

2. Section 233.20 is amended by adding paragraph (a)(2)(ix) to read as follows:

**§ 233.20 Need and amount of assistance.**(a) \* \* \*  
(2) \* \* \*

(ix) For AFDC, provide that a State shall consider utility payments made in lieu of any direct rental payment to a landlord or public housing agency to be shelter costs for applicants or recipients living in housing assisted under the U.S. Housing Act of 1937, as amended, and section 236 of the National Housing Act. The amount considered as a shelter payment shall not exceed the total amount the applicant or recipient is expected to contribute for the cost of housing as determined by HUD. "Utility payments" means only those payments made directly to a utility company or supplier which are for gas, electricity, water, heating fuel, sewerage systems, and trash and garbage collection. Utility payments are made "in lieu of any direct rental payment to a landlord or public housing agency" when, and only when, the AFDC family pays its entire required contribution at HUD's direction to one or more utility companies and does not make any direct payment to the landlord or the public housing agency. Housing covered by "the U.S. Housing Act of 1937, as amended, and section 236 of the National Housing Act" means Department of Housing and Urban Development assisted housing which includes Indian and public housing, section 8 new and existing rental housing, and section 236 rental housing.

[FR Doc. 88-20600 Filed 9-9-88; 8:45 am]

BILLING CODE 4150-04-M

**DEPARTMENT OF DEFENSE****48 CFR Parts 207, 210, 215, and 252****Federal Acquisition Regulation Supplement; Acquisition Streamlining****AGENCY:** Department of Defense (DoD).**ACTION:** Final rule.

**SUMMARY:** The Defense Acquisition Regulatory Council has approved changes to DFARS Parts 207, 210, 215 and 252 to implement FAR coverage and DoD Directive 5000.43, regarding acquisition streamlining.

**EFFECTIVE DATE:** September 12, 1988.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

**SUPPLEMENTARY INFORMATION:****A. Background**

The amendments to DFARS 207.105, 210.001, 210.002, 210.004, 210.011, 215.608 and to the provisions/clauses in Part 252 are added to implement the FAR and DoD Directive 5000.43, Acquisition Streamlining. Acquisition streamlining is any effort related to ensuring that only necessary and cost-effective requirements are included in solicitations and contracts. It applies not only to the design, development, and production of new systems, but also to modifications of existing systems that involve the redesign of systems or subsystems.

**B. Regulatory Flexibility Act**

This rule is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because the program primarily involves the engineering and design of systems and equipment which ordinarily is not accomplished by small businesses. A proposed rule was published in the *Federal Register* on January 28, 1988 (53 FR 2514) and public comments were solicited. Comments were considered in formulating this final rule. The only change made to the proposed rule was to add the word "technical" in paragraph (c)(4) of section 210.002.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the rule does not impose any additional recordkeeping requirements or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

**List of Subjects in 48 CFR Parts 207, 210, 215, and 252****Government procurement.**

Charles W. Lloyd,  
*Executive Secretary, Defense Acquisition Regulatory Council.*

**Adoption of Amendments**

Therefore 48 CFR Parts 207, 210, 215, and 252 are amended as follows:

1. The authority for 48 CFR Parts 207, 210, 215, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

**PART 207—ACQUISITION PLANNING**

2. Section 207.105 is amended by adding paragraph (a)(8) to read as follows:

**§ 207.105 Contents of written acquisition plans.**

• \* \* \* \*  
(a) *Acquisition background and objectives.*  
• \* \* \* \*

(8) *Acquisition streamlining.* Policy direction on acquisition streamlining is contained in DoDD 5000.43 and Part 210 of this regulation. See MIL-HDBK 248 for guidance on streamlining performance requirements, the technical package, and the contract strategy.

**PART 210—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS**

3. Section 210.001 is amended by adding the following definitions:

**§ 210.001 Definitions.**

• \* \* \* \*  
"Systems", as used in this part, means a combination of elements that will function together to produce the capabilities required to fulfill a mission need.

"System acquisition", as used in this part, means the design, development and production of new systems or the modification to existing systems that involve redesign of the system or subsystems.

4. Section 210.002 is amended by adding paragraph (c) to read as follows:

**§ 210.002 Policy.**

• \* \* \* \*  
(c) All systems acquisition programs in the DoD are subject to acquisition streamlining policies and procedures as specified in DoD Directive 5000.43 and MIL-HDBK 248.

(1) Requirements that are not mandated by law or established DoD policy and that do not contribute to the operational effectiveness and suitability of the system, or effective management of its acquisition, operation, or support, shall be excluded.

(2) At the outset of development, system-level requirements shall be specified in terms of mission-performance, operational effectiveness, and operational suitability.

(3) During all acquisition phases, solicitations and contracts shall state management requirements in terms of results needed rather than "how-to-manage" procedures for achieving those results.

(4) The Government program manager shall have the authority and be held accountable for determining what technical requirements should be incorporated in the contract, subject to appropriate review by the established DoD and cognizant DoD component review procedures.

5. Section 210.004 is amended by adding paragraph (a)(3) to read as follows:

**210.004 Selecting specifications or descriptions for use.**

(a) \*

(3) Statements of work subject to acquisition streamlining shall state whether individual specifications, standards, and related documents are provided for guidance only or as firm requirements. Where contract documents are specified for guidance only, the contractor shall be required to evaluate the documents in relation to the performance requirements and to recommend a tailored application of the documents for any subsequent phase of the system acquisition program. While there may be some mandatory design or performance requirements applied to a single phase or through the acquisition cycle, the citation of specifications, standards, and related documents shall:

(i) Specify results desired, rather than "how-to-design" or "how-to-manage".  
(ii) Be tailored to the unique circumstances of individual acquisition programs.

(iii) Be for guidance only, except as provided in paragraph (a)(3)(v) of this section, if included for acquisition programs prior to entering the full-scale development phase of their life cycle.

(iv) Be for mandatory compliance only for directly cited and first-tier referenced documents, except as provided in paragraph (a)(3)(v) of this section, for acquisition programs in the full-scale development phase of their life cycle. All other reference documents second-tier and below shall be for guidance only.

(v) Be for mandatory compliance including all levels of referenced documents, if they (A) define the product baseline for acquisition programs in the production phase; (B) call for nondevelopmental items, such as standard parts or off-the-shelf items; or (C) cover design constraints which have been directed and have been tailored to the maximum extent practicable.

(4) If the contractor is to evaluate and recommend tailored application for a subsequent phase, the contract statement of work must delineate the effort required.

\* \* \* \* \*  
6. Section 210.011 is amended by adding paragraph (S-73) to read as follows:

**210.011 Solicitation provisions and contract clauses.**

\* \* \* \* \*  
(S-73) The contracting officer shall insert the clause at 252.210-7005, Acquisition Streamlining, in solicitations and contracts for system acquisition programs (see 210.002).

**PART 215—CONTRACTING BY NEGOTIATION**

7. Section 215.608 is amended by adding paragraph (S-70) to read as follows:

**215.608 Proposal evaluation.**

\* \* \* \* \*  
(S-70) When a procurement is subject to acquisition streamlining, the contracting officer may want to include in the solicitation evaluation criteria on cost-performance trade-offs, application/tailoring recommendations, and cost-effectiveness of the proposed technical approach.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

8. Section 252.210-7005 is added to read as follows:

**252.210-7005 Acquisition streamlining.**

As prescribed in 210.011(S-73), insert the following clauses:

**Acquisition Streamlining (APR 1988)**

(a) It is the objective of the Government to acquire systems that meet stated performance requirements. The Government also desires to avoid over-specification and to ensure that cost-effective requirements are included in future acquisitions. The Contractor shall prepare and submit acquisition streamlining recommendations in accordance with the statement of work of this contract. These recommendations shall be formatted and submitted as identified in the contract data requirements list (CDRL). However, recommendations may be accepted, modified, or rejected by the Government.

(b) The Contractor shall insert this clause, including this paragraph (b), in all subcontracts in excess of one million dollars (\$1 million).

(End of clause)

[FR Doc. 88-20512 Filed 9-9-88; 8:45 am]

BILLING CODE 3810-01-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 259**

[Docket No. 80346-8046]

**Interim Fishing Vessel Capital Construction Fund Procedures**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Interim rule.

**SUMMARY:** The Fishing Vessel Capital Construction Fund (FVCCF) program defers Federal tax on fishing vessel income reserved for eligible projects. This rule modifies Program reporting requirements because the Tax Reform Act of 1986 has mandated the submission to the Internal Revenue Service of certain information. The rule would allow NOAA to comply with that requirement.

**EFFECTIVE DATE:** September 12, 1988. The first reports required are for 1987 and shall be due October 12, 1988.

**ADDRESS:** Comments on the information collection should be directed to the Office of Information and Regulatory Affairs, Attention: Desk Officer for NOAA, Office of Management and Budget, Washington, DC 20235.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Grable (Financial Services Division, NMFS), (202) 673-5424.

**SUPPLEMENTARY INFORMATION:** The FVCCF Program defers Federal tax on fishing vessel income reserved for the construction, reconstruction, or acquisition and reconstruction of fishing vessels. Contracts between the Program and its participants are required. These contracts specify: (a) The vessels eligible to defer income tax, (b) where funds will be deposited, (c) what projects those funds are reserved for, and (d) other aspects of the tax deferral agreement. Tax is deferred on all taxable income deposited in accordance with Program contracts. Funds eligible for deposit include: (a) All or any portion of taxable income from fishing vessel operations, (b) 100 percent of the net proceeds from the sale or other disposition of fishing vessels, (c) all or any portion of depreciation allowances, and all or any portion of income earned from the investment of FVCCF Program deposits.

Deferred taxes are eventually recaptured through a reduction of depreciation basis, for tax purposes, of vessels constructed, reconstructed, or acquired and reconstructed with tax-deferred funds under this Program.

Program projects may be scheduled for completion up to 10 years in the future. All withdrawals of tax-deferred funds must be in accordance with Program contracts. There are possibly severe tax consequences for unauthorized withdrawals. Rules for the FVCCF Program appear at 50 CFR Part 259 and 26 CFR Part 3. The Program is authorized by section 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177).

This rule is required by section 261(d) of the Tax Reform Act, 1986 (Pub. L. 99-514), enacted on October 22, 1986. Section 259.35 of the FVCCF Program's present rules (50 CFR Part 259) requires all Program participants to submit an annual deposit/withdrawal report specifying all such activity under Program contracts. This annual end-of-tax-year report is due 30 days after the due date, with extension (if any), for filing Federal income tax returns.

The Tax Reform Act, 1986, however, requires, for each calendar year beginning after December 31, 1986, that the Secretary of Commerce provide the Secretary of the Treasury, within 120 days after the end of the year, with a written report which, among other things, sets forth the name and taxpayer identification number of each person making any withdrawal from or deposit into (and the amount thereof) a Capital Construction Fund during such calendar year.

Under present rules, the reporting due date for agreement holders to report to the Secretary of Commerce can be more than 120 days after the close of the calendar year because various taxpayers are entitled to various extensions in the due date for filing their returns. Thus, in many cases, the Secretary of Commerce will receive deposit and withdrawal information too late to include it in the report required for the Secretary of the Treasury.

This rule change will require FVCCF agreement holders to submit certain preliminary deposit and withdrawal information at the close of the calendar year in sufficient time for it to be processed and included in the report required for the Secretary of the Treasury under the Tax Reform Act of 1986. This is in addition to final deposit and withdrawal information to be

submitted at the end of the tax year by the Secretary of Commerce as required under current regulations.

#### Classification

The agency has reviewed this rulemaking in accordance with Executive Order 12291, "Federal Regulations", and determined that it is not a "major" rule requiring a regulatory impact analysis because it has no effect on the economy, costs, or prices, and has no impact on competition, employment, investment, or productivity. As this rulemaking relates to a program with benefits and contracts for benefits, it is exempt from the notice-and-comment and delayed effective date provisions of the Administrative Procedure Act and thus from the Regulatory Flexibility Act requirement of a regulatory flexibility analysis. Further, the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, has determined that this final rulemaking does not require the preparation of an environmental impact statement under the National Environmental Policy Act. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12812. Finally, this rule contains a new collection of information requirement at 50 CFR 259.35(a). This collection of information has been cleared by OMB under Control No. 0648-0200. The Public reporting burden is estimated to be 0.83 hours per response. Comments on the information collection should be directed to the Office of Information and Regulatory Affairs. (See Addresses).

#### List of Subjects in 50 CFR Part 259

Fisheries, Fishing vessels, Income taxes.

For the reasons set out in the preamble, 50 CFR Part 259 is amended as follows:

#### PART 259—AMENDED

1. The authority citation for Part 259 is revised to read as follows:

Authority: 46 U.S.C. 1177.

2. In § 259.35, paragraph (a) is revised to read as follows:

#### § 259.35 Annual deposit and withdrawal reports required.

(a) The Secretary will require from each Interim CCF Agreement holder (Party) the following annual deposit and withdrawal reports. Failure to submit such reports may be cause for involuntary termination of CCF Agreements.

(1) A preliminary deposit and withdrawal report at the end of each calendar year, which must be submitted not later than 45 days after the close of the calendar year. The report must give the amounts withdrawn from and deposited into the party's CCF during the subject year, and be in letter form showing the agreement holder's name, FVCCF identification number, and taxpayer identification number. Each report must bear certification that the deposit and withdrawal information given includes all deposit and withdrawal activity for the year and the account reported. Negative reports must be submitted in those cases where there is no deposit and/or withdrawal activity. If the party's tax year is the same as the calendar year, and if the final deposit and withdrawal report required under paragraph (a)(2) of this section is submitted before the due date for this preliminary report, then this report is not required.

(2) A final deposit and withdrawal report at the end of the tax year, which shall be submitted not later than 30 days after expiration of the due date, with extensions (if any), for filing the party's Federal income tax return. The report must be made on a form prescribed by the Secretary using a separate form for each FVCCF depository. Each report must bear certification that the deposit and withdrawal information given includes all deposit and withdrawal activity for the year and account reported. Negative reports must be submitted in those cases where there is no deposit and/or withdrawal activity.

\* \* \* \* \*

September 6, 1988.

James W. Brennan,

Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 88-20647 Filed 9-9-88; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 53, No. 176

Monday, September 12, 1988

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 THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[EE-158-86, 160-86]

### Excise and Income Taxes; 401(k) Arrangements Under the Tax Reform Act of 1986 and Nondiscrimination Requirements for Employee and Matching Contributions

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Corrections to notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to the Federal Register publication on Monday, August 8, 1988, beginning at 53 FR 29719 of the notice of proposed rulemaking. The proposed rules relate to cash or deferred arrangements described in section 401(k) of the Internal Revenue Code of 1986, and nondiscrimination rules for employee contributions and matching contributions made to employee plans contained in section 401(m) of the Code. These changes were made to the Code by the Tax Reform Act of 1986.

**DATES:** These regulations are effective for plan years beginning after December 31, 1986.

#### FOR FURTHER INFORMATION CONTACT:

William D. Gibbs of the Employee Benefits and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-377-9372) (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 8, 1988, proposed rules relating to cash or deferred arrangements and nondiscrimination rules for employee contributions and matching contributions were published in the Federal Register (53 FR 29719). The amendments were proposed to conform the regulations to changes in

the applicable tax law made by the Tax Reform Act of 1986.

#### Need for Correction

As published, the proposed rules contain typographical errors which may prove to be misleading and are in need of correction.

#### Correction of Publication

Accordingly, the publication of the proposed rules (EE-158-86, 160-86), which was the subject of FR Doc. 88-17721 (53 FR 29719), is corrected as follows:

#### § 1.401(k)-0 [Corrected]

Paragraph 1. On page 29723, column 1, in the table of contents, § 1.401(k)-1(e)(1), which reads, "(1) Qualified profit-sharing, stock bonus, pre-ERISA money purchase, and rural electric cooperative plan requirement." is removed and the language "(1) Qualified profit-sharing, stock bonus, pre-ERISA money purchase, and rural electric cooperative plan requirement." is added in its place.

#### § 1.401(k)-1 [Corrected]

Paragraph 2. On page 29729, column 1, line 10 of § 1.401(k)-1(f)(5)(iii), which reads, "paragraph (g)(8)(iii)(A)(1) of this section," is removed and the language "paragraph (g)(8)(iii)(A)(2) of this section," is added in its place.

Paragraph 3. On page 29729, column 1, line 21 of § 1.401(k)-1(f)(5)(iii), which reads, "paragraph (g)(8)(iii)(A)(2), then the" is removed and the language "paragraph (g)(8)(iii)(A)(1), then the" is added in its place.

Paragraph 4. On page 29736, column 1, line 11 of § 1.401(k)-1(e)(4)(iii), which reads, "(f)(13)(iii)(1) of this section, then the" is removed and the language "(f)(13)(iii)(A)(2) of this section, then the" is added in its place.

Paragraph 5. On page 29736, column 1, line 24 of § 1.401(k)-1(e)(4)(iii), which reads, "under paragraph (f)(13)(iii)(2) of this" is removed and the language "under paragraph (f)(13)(iii)(A)(1) of this" is added in its place.

Paragraph 6. On page 29736, column 1, line 41 of § 1.401(k)-1(e)(4)(iii), which reads, "(f)(13)(iii)(1), and shall be allocated" is removed and the language "(f)(13)(iii)(A)(1), and shall be allocated" is added in its place.

#### § 1.401(m)-2 [Corrected]

Paragraph 7. On page 29740, column 1, line 13 of § 1.401(m)-2(c)(3), which reads, "described in § 1.401(m)-1(b)(6)(ii), as" is removed and the language "described in § 1.401(m)-1(e)(2), as" is added in its place.

Dale D. Goode,

*Chief, Technical Section Legislation and Regulations Division.*

[FR Doc. 88-20628 Filed 9-9-88; 8:45 am]

BILLING CODE 4830-01-M

## ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[A-1-FRL-3443-6]

### Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Reasonably Available Control Technology for Providence Metallizing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a proposed State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision defines and imposes reasonably available control technology (RACT) on Providence Metallizing located in Pawtucket, Rhode Island. This revision is necessary to limit volatile organic compound (VOC) emissions from this source. The intended effect of this action is to propose approval of a source-specific RACT determination made by the State in accordance with commitments specified in its Ozone Attainment Plan approved by EPA on July 6, 1983 (48 FR 31026).

This action is being taken in accordance with section 110 of the Clean Air Act.

**DATE:** Comments must be received on or before October 12, 1988.

**ADDRESSES:** Comments may be mailed to Louis F. Gitto, Director, Air Management Division, EPA Region I, Room 2313, JFK Federal Building, Boston, MA 02203. Copies of the State Submittal and EPA's Technical Support Document for this proposed action are available for public inspection during normal business hours at the Environmental Protection Agency.

Region I, JFK Federal Building, Room 2311, Boston, MA 02203; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908.

**FOR FURTHER INFORMATION CONTACT:**  
Robert C. Judge, (617) 565-3248; FTS 835-3248.

**SUPPLEMENTARY INFORMATION:** On April 3, 1987, The Rhode Island Department of Environmental Management (DEM) submitted a proposed consent agreement between the DEM and Providence Metallizing to EPA for parallel processing as a SIP revision. The consent agreement establishes and imposes RACT to control VOC emissions from Providence Metallizing. Rhode Island SIP Regulation No. 15, subsection 15.5 requires that RACT be defined for all otherwise unregulated VOC emitting stationary sources greater than or equal to 100 tons per year. EPA approved this subsection of Regulation No. 15 on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. That approval stipulated that all RACT determinations made by the DEM under subsection 15.5 would be submitted to EPA as source-specific SIP revisions. Providence Metallizing is considered a miscellaneous VOC emitting source because it coats plastic and metal parts, and Rhode Island does not have a RACT regulation specifically for plastic or metal parts coating.

The DEM has determined that 3.5 pounds VOC/gallon of coating (minus water) met on a facility-wide basis over a daily (24 hour) averaging period is RACT for Providence Metallizing. This consent agreement was issued pursuant to requirements found in Rhode Island Regulation No. 15, subsection 15.5. Further, this consent agreement was issued by the DEM in accordance with the principles of EPA's Emission Trading Policy published on December 4, 1986 (51 FR 43814). This consent agreement fulfills all of the requirements set by EPA in our approval of Rhode Island's Regulation No. 15, subsection 15.5 as approved by EPA, as well as EPA's Emission Trading Policy.

EPA and the DEM worked closely in developing a RACT emission limit for Providence Metallizing. Providence Metallizing coats plastic parts, which are not covered under any of EPA's Control Techniques Guideline (CTG) documents. In order to determine if the 3.5 pounds VOC/gallon of coating (minus water) limit developed by the DEM represents RACT for the coating of plastic parts, EPA has reviewed the approved emission limits specified by other states for plastic parts coaters and has determined that this emission limit is consistent with those regulations. Providence Metallizing also coats metal parts. The DEM has determined that the emission reductions that will be achieved by requiring the source to meet an emission limit of 3.5 pounds of VOC/gallon of coating (minus water) are greater than the emission reductions which could have been achieved by subjecting the individual coating operations (i.e., clear coat application, base coat application and color coat application) to the applicable emission limits recommended by the miscellaneous metal parts and products surface coating CTG. (For further information on the justification of this emission limit, see the Technical Support Document prepared for this revision available from the EPA Regional Office listed in the ADDRESSES section.)

As previously stated, Providence Metallizing will meet the RACT emission limit of 3.5 pounds VOC/gallon of coating (minus water) on a facility-wide basis over a daily averaging period. Providence Metallizing will be using add-on control equipment on five spray booths to generate sufficient reductions to compensate for emissions above the 3.5 pounds VOC/gallon of coating (minus water) limit at three uncontrolled spray booths so that RACT may be met on a facility-wide basis. This control strategy to meet RACT on a facility-wide basis is commonly referred to as a bubble. As part of the formal SIP revision submittal for this bubble, the Rhode Island DEM must submit the calculation method that will be used to determine whether or not Providence

Metallizing is in compliance with the conditions of its bubble approval.

Prior to final rulemaking by EPA, the DEM must insure that Providence Metallizing's production is not changed in any way which could compromise the fact that this single emission limit is more stringent than the individual emission limits recommended by the miscellaneous metal parts and products surface coating CTG for the various metal coating operations at Providence Metallizing. Therefore, the quantity of coatings being applied in the various coating operations at Providence Metallizing must continue to be applied in a ratio which insures that a facility-wide emission limit of 3.5 pounds of VOC/gallon of coating (minus water) is at least as stringent as the application of the individual emission limits recommended by the CTG. Further, the DEM must include Providence Metallizing's daily recordkeeping sheets with the formal SIP revision. These daily records must include, on a line-by-line basis, the coating identification number, the coating function (i.e., top clear coat, base coat, color coat), the VOC content of each coating as applied (as determined by EPA Reference Method 24), and the amount of each coating used each day. Further, Providence Metallizing must record on a continuous basis, the incinerator combustion temperature, and air flow rate through the incinerator.

This consent agreement between Providence Metallizing and the DEM meets all of the tests in EPA's Emission Trading Policy published on December 4, 1986 (51 FR 43814). (For a complete discussion of the applicable tests of EPA's Emission Trading Policy, as well as Providence Metallizing's fulfillment of these tests, see the Technical Support Document referenced above.) Compliance with the facility-wide RACT limit of 3.5 pounds VOC/gallon of coating (minus water) met on a facility-wide basis will result in an approximate 67 percent reduction in VOC emissions from Providence Metallizing.

Neither actual nor allowable emissions from Providence Metallizing will increase as a result of this bubble.

#### Actual Emissions at RACT<sup>1</sup> (pounds VOC/day)

#### Allowable Emissions at RACT<sup>2</sup> (pounds VOC/day)

Before bubble	After bubble	Change	Before bubble	After bubble	Change
580.8	580.8	0.0	580.8	580.8	0.0

<sup>1</sup> Based on the source's actual operating history of 250 days per year/24 hours per day during 1985.

<sup>2</sup> Based on the source's maximum capacity; 24 hours per day; 5 days per week; and 50 weeks per year (daily production is maximized).

The State submitted this bubble to EPA after EPA published the Final

Emissions Trading Policy Statement (Final ETSS) on December 4, 1986 (51 FR

43814). At the time of the State's submittal, although the area was not in

attainment of the ozone national ambient air quality standard (NAAQS), EPA had approved the SIP for the area, including the attainment demonstration, as providing for attainment by 1982. Thus, at the time, the area was considered a nonattainment area with an approved demonstration (NAWAD) for purposes of applying the Final ETPS. Under the Final ETPS, a bubble in a NAWAD is approvable if the baseline is consistent with the assumptions used in the approved SIP, and the bubble does not interfere with attainment of the ozone NAAQS. For the reasons discussed above, this bubble meets these requirements.

However, while EPA was considering this bubble, it received additional information that the approved SIP is not adequate to provide for attainment by the end of 1982. On November 24, 1987, EPA stated in the *Federal Register* that air quality monitors revealed sufficient exceedances of the ozone standard in the area and that a SIP call may be issued (52 FR 45044). A SIP call is a finding by EPA under Clean Air Act Subsection 110(a)(2)(H) that the SIP does not provide for attainment by the required date, and thus amounts to a revocation for certain purposes of EPA's approval of the SIP and the attainment demonstration. Further, that *Federal Register* notice outlined EPA's Proposed Policy for requiring revised SIPs in areas still violating the ozone standard after December 31, 1987. Since publishing this notice, air quality monitors have revealed additional exceedances of the standard during 1987. On May 25, 1988, EPA issued a SIP call for this area.

For purposes of the general applicability of the Final ETPS, the issuance of the SIP call has converted the area into a nonattainment area lacking an approved demonstration (NALAD). (51 FR 43839, column 3.) Under the general rule of the Final ETPS, which would apply to all submissions of bubbles by the State to EPA after the date of the SIP call, the bubble would be approvable only if it met the following three tests:

(i) The baseline must be calculated using the lower of actual, SIP-allowable, or RACT-allowable values for each baseline factor, determined as of the date the source submitted the bubble application to the State.

(ii) The bubble must produce a reduction of at least 20 percent in the emissions remaining after application of the baseline specified above.

(iii) The State must provide assurances that the proposed trade will be consistent with its efforts to attain the ambient standard. The Final ETPS

sets out five representations that the State must make.

However, this bubble was submitted to EPA on April 3, 1987, approximately four months after the publication of the Final ETPS. At the time, the bubble was in a NAWAD and was consistent with the ETPS tests for that area. The ETPS did not explicitly contemplate the tests for this bubble, which was submitted by the State after publication of the Final ETPS, at a time when the area was a NAWAD. The bubble met each of the tests of the ETPS for that area, but the area received a SIP call that converted it to a NALAD, before EPA acted on the bubble.

The ETPS is a policy statement that does not set out requirements that apply with equal force in all circumstances. In different circumstances, EPA may apply different requirements. Beyond this, the proposed actions in today's notice are consistent with the principles of grandfathering that the Court of Appeals for the District of Columbia Circuit has applied when an agency changes policy requirements, but seeks to apply the former policy to certain actions pending before the agency at the time of the policy change. Under these principles, the agency may apply the former policy when: (i) The new policy represents an abrupt departure from well established practice; (ii) affected parties have relied on the old policy; (iii) the new policy imposes a large burden on those affected; and (iv) there is no strong statutory interest in applying the new policy generally. *Sierra Club vs. EPA*, 719 F.2d 436 (D.C. Cir. 1982), *cert. den.* 468 U.S. 1204 (1984).

Although these grandfathering principles do not literally apply in the case of this bubble because EPA has not issued any new policy, EPA believes that these principles provide a helpful analogy because of the changed circumstances, specifically the conversion from NAWAD to NALAD, these areas found themselves in while EPA was considering the bubble application. EPA believes that applying the requirements outlined below will be consistent with the fact that the ETPS is a policy statement whose tests may not apply with equal force in all circumstances, and with grandfathering principles.

Therefore, EPA has determined that different requirements should apply to a bubble, such as this one, submitted prior to the SIP call. This bubble uses a lower of actual, SIP-allowable, or RACT-allowable baseline. However, the bubble is not required to show any reduction in emissions beyond the baseline.

Further, EPA does believe that the State should provide the State assurances identified in the ETPS. Specifically, the State must make the following representations to EPA:

(i) The bubble emission limits will be included any new SIP and associated control strategy demonstration.

(ii) The bubble will not constrain the State or local agency's ability to obtain any additional emission reductions needed to expeditiously attain and maintain ambient air quality standards.

(iii) The State or local agency is making reasonable efforts to develop a complete approvable SIP and provides EPA a schedule for such development (including dates for completion of emissions inventory and subsequent increments of progress).

In addition, these State assurances should be consistent with the State's SIP planning obligations under the Proposed Ozone Strategy.

EPA believes it is appropriate to exempt this bubble from the 20 percent progress requirement on equitable grounds: The State and the source had relied on the area's classification as a NAWAD in submitting the bubble. Subjecting the bubble to the 20 percent progress requirement would be a significant burden because the bubble would likely require significant restructuring to be approvable, which would require the State to undergo rulemaking again.

However, EPA believes that State assurances of the type described above are necessary. Although State assurances create some burden, EPA does not consider them overly burdensome, under these circumstances, because (i) the State is required to engage in SIP planning under the Proposed Ozone Strategy; and (ii) absent satisfaction of the 20 percent progress requirement, State assurances protect the statutory requirement that the bubble does not interfere with attainment as expeditiously as practicable. In light of the equitable considerations noted above, and the fact that State assurances would be required, exempting the bubble from the 20 percent progress test would not undermine the requirement under Clean Air Act section 110 that the SIP revision not interfere with attainment as expeditiously as practicable.

Accordingly, EPA is today proposing to approve this bubble for Providence Metallizing. However, EPA will not promulgate final approval of this bubble until the State submits adequate assurances when this SIP revision is formally submitted to EPA. Therefore, EPA is proposing to approve Rhode

Island's proposed SIP revision for Providence Metallizing, which was submitted on April 3, 1987, and is soliciting public comments on this revision. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the above address.

These revisions are being proposed under a procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised Notice of Proposed Rulemaking. If no substantial changes are made other than those cited in this notice, EPA will publish a Final Rulemaking Notice on the revision. The final rulemaking by EPA will occur only after the SIP revision has been adopted by Rhode Island and submitted to EPA for incorporation into the SIP.

#### Proposed Action

EPA is proposing to approve the proposed consent agreement submitted by the DEM as a SIP revision request for Providence Metallizing in Pawtucket, Rhode Island. The proposed consent agreement requires Providence Metallizing to meet a facility-wide RACT emission limit of 3.5 pounds VOC/gallon of coating (minus water) over a 24 hour averaging period. Prior to final rulemaking on this SIP revision, the DEM must amend the consent agreement as described in this notice and formally submit the revised version for approval and incorporation into the SIP.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of sections 110(a)(2)(A)-(K) and 110(a)(3) 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7642.  
 Michael R. Deland,  
*Regional Administrator, Region I.*  
 [FR Doc. 88-20329 Filed 9-9-88; 8:45 am]  
 BILLING CODE 6560-50-M

#### 40 CFR Part 52

[FRL-3444-2; Region II, Docket No. 81]

#### Approved and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to disapprove the State of New York's submittals of revisions to its State Implementation Plan (SIP) consisting of control measures for certain specific carbon monoxide (CO) hotspots in the New York City metropolitan area. The State's submittal was prepared in response to commitments made in the 1982 SIP to develop and implement control measures for identified CO hotspots, and to submit those measures as SIP revisions for EPA review. EPA is proposing to disapprove the Group III/IV hotspot submittals because they do not meet certain provisions of the Clean Air Act, including section 172's requirement that the SIP provide for attainment of the CO national ambient air quality standards (NAAQS) by December 31, 1987.

However, EPA is also proposing to approve those individual control measures which either provide for attainment of the CO NAAQS at the applicable hotspots, or otherwise improve and strengthen the SIP and will not interfere with timely attainment and maintenance of the CO NAAQS. EPA's final approval of these measures would add them to the federally enforceable SIP, even if the pending revision as a whole is disapproved due to its failure to provide for attainment at all Group III/IV hotspots.

**DATE:** Comments must be received by November 14, 1988.

**ADDRESSES:** All comments should be addressed to:

Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Jacob J.avits Federal Building, 26 Federal Plaza, New York, New York 10278.

Copies of the submittal are available for public inspection during normal business hours at:

Environmental Protection Agency, Region II, Air Programs Branch, Jacob J.avits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278.

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233. New York State Department of Environmental Conservation, Region 2, 47-40 21st Street, Long Island City, New York 11101.

**FOR FURTHER INFORMATION CONTACT:** William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, Jacob J.avits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264-2517.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under provisions of the 1977 Amendments to the Clean Air Act, in 1979 and 1982 the State of New York was required to submit to the Environmental Protection Agency (EPA) revisions to its State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Rockland and Westchester Counties). These revisions were to present a program to continue the State's efforts toward attainment of the national ambient air quality standards for ozone and carbon monoxide (CO). The required SIPs were submitted and EPA approved them on May 21, 1980 (45 FR 33981) and on June 17, 1985 (50 FR 25073). In its June 17 notice EPA noted that the adequacy of the New York City CO hotspot control program would be the subject of further EPA review. Today's notice announces EPA's proposed findings in the latest phase of this continuing review.

##### II. 1982 SIP Commitments

The 1982 SIP contained a commitment for the development and implementation of control programs for existing and future CO hotspots.

Based on an air quality survey, the SIP identified a list of CO hotspots in New York City. The State of New York committed in its SIP to develop and implement control measures for the identified hotspots in order to bring them into attainment with the CO standard by December 31, 1987.

The control measures would be developed annually for groups of approximately 15 hotspots and submitted to EPA as revisions to the SIP. Control measures for Group I and Group II hotspot sites were developed and submitted to EPA with the CO SIP on

February 2, 1984. The reader is referred to EPA's May 1, 1984 *Federal Register* proposal (49 CFR 18558) for a description of the Group I and II sites and their control programs. Groups I and II were approved when the CO SIP as a whole was approved on June 17, 1985 (50 FR 25073). The control program for Group III hotspot sites was due to be submitted by July 1, 1985. The control program for Group IV hotspots was due to be submitted by July 1, 1986. The Group III report was submitted to EPA on March 7, 1986 and the Group IV report was submitted on August 27, 1986.

Also on August 27, 1986, the State submitted to EPA the report for 1985 on its Reasonable Further Progress (RFP) toward attainment of the CO standard.

### III. The Group III Report

#### 1. Description of Group III CO Hotspots

The State identified 15 Group III CO hotspots, which are listed in Table 1. Eight of these hotspots were found to be in attainment of (or able to attain) the CO standards prior to December 31, 1987, with the application of transportation control measures presently in place. The seven other Group III CO hotspots were found to require substantially greater emission reductions than available from in-place measures in order to achieve the standard. Measures are proposed in the submittal which will bring three of the sites into attainment by December 31, 1987. The remaining four sites require additional reductions, which are not quantified in the submittal. These seven sites are referred to as the "hardcore" hotspot sites.

TABLE 1.—NEW YORK CITY GROUP III CARBON MONOXIDE HOTSPOTS

#### Hardcore Hotspot Sites:

##### Manhattan

Broadway/37th-38th Streets<sup>1</sup>  
42nd St./Lexington-Madison Avenues  
49th St./Park-Madison Avenues<sup>1</sup>

50th St./5th—Madison Avenues<sup>1</sup>  
Broadway/Fulton-John Streets  
37th St./6th—8th Avenues

59th St./5th-Madison Avenues

#### Non-Hardcore Hotspot Sites:

##### Manhattan

Lexington Avenue/40th—41st Streets<sup>1</sup>  
Wall St./William-Pearl Streets<sup>1</sup>  
Canal St./Church St.—Broadway<sup>1</sup>

Canal St./Elizabeth St.—Bowery<sup>1</sup>  
Houston St./Bowery-Elizabeth St.<sup>1</sup>

##### Brooklyn

Coney Island Ave./I—K Aves.<sup>1</sup>  
Greenpoint Ave./Jewel Street<sup>1</sup>

##### Bronx

White Plains Rd./Bruckner Expy.<sup>1</sup>

<sup>1</sup> Sites predicted to be in attainment of the CO standards by December 31, 1987.

#### 2. Description of Group III Control Program

The State's control program for Group III hotspots consists of site specific measures and areawide control measures. As mentioned earlier, the combination of site specific and areawide control measures reduces emissions sufficiently to provide for attainment of the CO standard by December 31, 1987, at three of the seven hardcore hotspots.

Site specific control measures consist of the deployment of parking enforcement agents and intersection control agents, and physical improvements such as retiming of traffic signals, pavement markings, and improved signs. The hardcore hotspot sites are indicative of the general CO problem throughout the Manhattan Central Business Districts (CBDs). Because the locations of CO standard violations are not always restricted to hotspot sites, the submittal includes areawide measures, which have effects throughout the CBDs. The Group III areawide control program consists of a total of 16 measures listed in Table 2. The State has firmly committed to implement eight of these areawide measures. The submittal states that the City of New York will examine the eight other control measures for possible future implementation.

TABLE 2.—NEW YORK CITY GROUP III CARBON MONOXIDE HOTSPOT CONTROL PROGRAM AREAWIDE CONTROL MEASURES—Continued

	Implementation date
6. Area Licensing in CBD (vehicle restriction).	12/87.
7. Transit Improvements—MTA Capital Program.	1/87.
8. Single Occupant Ban on East River Bridges.	12/87.

### IV. The Group IV Report

#### 1. Description of Group IV Hotspots

The Group IV hotspot sites are composed of two types of hotspots:

A. Candidate hotspot sites obtained from 1984 final environmental impact statements (FEISs) which had not been previously addressed in SIP studies.

B. Previously analyzed hotspots that were studied and had control measures adopted in 1983 or 1984 and were previously submitted to EPA in Groups I and III, but at which the State's analysis of traffic or monitoring data indicates that additional efforts to assure compliance are needed.

The Group IV hotspot sites are listed in Table 3.

TABLE 3.—GROUP IV HOTSPOTS

Hotspot	Project
A. Candidate Hotspots from 1984 FEISs	
1. 14th St., at Broadway <sup>1</sup>	Klein Development at Union Square.
2. Third Ave., 17th—18th Sts. <sup>1</sup>	Klein Development at Union Square.
3. Third Ave., 64th—65th Sts. <sup>1</sup>	51 Story Bldg. at 3rd Ave. & 64th St.
4. Broadway, 42nd—43rd Sts. <sup>1</sup>	42nd Street Development.
5. Lexington Ave., 52nd—53rd Sts.	Cadillac Fairview.
6. 52nd St., Lexington—Third Ave. <sup>1</sup>	Cadillac Fairview.
7. 53rd St., Lexington—Third Ave. <sup>1</sup>	Cadillac Fairview.
8. 6th Ave. at 42nd Sts. <sup>1</sup>	Bryant Park Restoration.
9. 5th Ave. at 42nd St. <sup>1</sup>	Bryant Park Restoration and Restaurant.
10. West St., Laight—Vestry Sts.	Washington St., 6th Amended Plan.
11. West St., Warren—Chambers Sts. <sup>1</sup>	Washington St., 6th Amended Plan.
12. Canal St., Lafayette—Broadway. <sup>1</sup>	Washington St., 6th Amended Plan.
13. Church and Chambers St. <sup>1</sup>	Washington St., 6th Amended Plan.
B. Previously Analyzed Hotspots	
1. 37 St., 6th—8th Aves.	Group III Hardcore Hotspot.
2. 59 St., 5th—Madison Aves.	Group III Hardcore Hotspot.
3. 42nd St., Lexington—Madison Aves.	Group III Hardcore Hotspot.

TABLE 3.—GROUP IV HOTSPOTS—Continued

Hotspot	Project
4. Broadway, Fulton—John St.	Group III Hardcore Hotspot.
5. Flatbush Ave., Tillary—Johnson Sts.	Group I site, monitoring shows CO above standard.
6. 59th St., 2nd—3rd Aves.	Group I site, monitoring shows CO above standard.

<sup>1</sup> Sites predicted to be in attainment of the CO standards by December 31, 1987.

## 2. Description of the Group IV Control Program

A re-analysis of candidate hotspots from 1984 FEISs using the EPA MOBILE3 emissions model was conducted by New York City to determine what mitigating measures, if any, were needed.

MOBILE3 is a more accurate model than that which was available when the sites were originally analyzed. Twelve of the thirteen sites in this (A in Table 3) subgroup were shown to meet the CO standard either with existing control measures—primarily the Federal Motor Vehicle Control Program and the New York automobile emissions inspection and maintenance (I/M) program or with the mitigating measures proposed in the FEISs. Additional analysis and measures must be developed for West Street from Laight to Vestry Street in order to assure that that site also achieves compliance.

The City is committed to implement site-specific mitigating measures for sites that require them. These measures are: changes to parking and truck loading regulations, computerized traffic signals, street widenings, turning movement prohibitions, and the development of additional traffic enforcement agents. Table 4 lists the 1984 FEIS sites which require site specific mitigating measures.

TABLE 4.—MITIGATING MEASURES FOR HOTSPOT SITES IDENTIFIED IN 1984 EISs

Site	Measures
Lexington Ave./52nd—53rd Sts.	Changes to parking regulations; Red Zone Bus Lane.
6th Ave & 42nd St.	Changes to parking regulations.
5th Ave & 42nd St.	Changes to parking regulations.
West St/Laight-Vesty Sts.	Computerized traffic signals; Street widenings; Turn prohibition.
West St./Warren-Chambers Sts.	Computerized traffic signals; Street widenings; Turn prohibition.

TABLE 4.—MITIGATING MEASURES FOR HOTSPOT SITES IDENTIFIED IN 1984 EISs—Continued

Site	Measures
Church & Chambers Sts.	Traffic signal timing changes; Street striping; Enforcement agents.

A program to achieve compliance at the seven hardcore hotspots was submitted to EPA as part of the Group III Report. Three of seven sites were shown to be in compliance by December 31, 1987. The control measures at the four remaining hardcore sites fell short of the reduction needed for compliance. These following four hardcore hotspots below were added to the list of Group IV hotspots in the second subgroup (see B in Table 3).

—37th Street from 6th Avenue to 8th Avenue  
—59th Street from 5th Avenue to Madison Avenue  
—42nd Street from Lexington Avenue to Madison Avenue  
—Broadway and Fulton Street to John/Dey Streets

The other sites making up the second subgroup of Group IV are Flatbush Avenue from Tillary to Johnson Streets, and 59th Street from 2nd to 3rd Avenues. These two sites are Group I sites that had previously been demonstrated to be in compliance with the CO standard. Recent air quality monitoring now shows these sites to be in violation of the standard. The submittal does not identify any additional measures to bring these sites into compliance.

## V. 1985 RFP Report

On August 27, 1986, the State submitted to EPA a report on its progress in 1985 toward attaining the CO standards in New York City. This report provided a status report on the areawide CO control measures which the State committed in its SIP to develop and implement.

The SIP also includes a commitment to track growth through the New York City Environmental Quality Review (CEQR) process. The RFP report includes information on the projects in the City for which FEIS were certified in 1985.

### 1. Areawide Control Measures

There are 16 areawide control measures. As detailed in Tables 5 and 6, the State is now committed to implement nine of them and to study the other seven. This is an increase of one measure (Curbside Truck Loading Ban) over those scheduled for implementation in the Group III report.

TABLE 5.—MEASURES COMMITTED FOR IMPLEMENTATION

Measure	Implementation date
1. Traffic Signal Computerization.	Spring 1989.
2. Curbside Truck Loading Ban.	April 1987.
3. Large Truck Ban.	August 1986.
4. Truck Zoning Controls.	May 1987.
5. Traffic Tow Initiative.	July 1986.
6. Blue Zone II.	Fall 1986.
7. 49th/50th Bus & Tax Lanes.	March 1986.
8. 42nd St. Transitway.	February 1987.
9. Zero-Based Parking.	September 1986.

TABLE 6.—MEASURES SUBJECT TO FURTHER STUDY

Measure	Implementation date
10. Taxi Operations.	May 1986—June 1988.
11. Bus Lanes & Layovers.	1987.
12. Bus Routing.	October 1987.
13. Area Licensing.	December 1987.
14. Single Occupancy Auto Ban.	December 1987.
15. Transit Improvements.	January 1987.
16. Alternate Taxi Fuels.	Not given.

## 2. 1985 FEISs

Table 7 lists the sites identified in FEISs certified in 1985 which are predicted to violate the CO standard.

TABLE 7.—SITES PREDICTED BY 1985 FEIS'S TO BE IN VIOLATION OF THE CO STANDARD

Manhattan
55th St/6th-7th Aves.
56th St/6th-7th Aves.
7th Ave/55th-56th Sts.
6th Ave/55th-56th Sts.
Brooklyn
Grand/Morgan Sts.
Havemeyer & South 5th Sts.
Metropolitan Ave & Brooklyn Queens Expwy.
Flatbush Ave/Tillary-Johnson Sts.

## VI. Adequacy of the Carbon Monoxide Control Program

Based on its review, EPA is proposing to disapprove the Group III and IV submittals as SIP revisions. The reasons why this action is necessary are briefly summarized below. EPA proposes to approve the individual carbon monoxide control measures listed in Tables 4 and 5. EPA also proposes to approve the control measures listed in Table 6 should New York adopt them after further studies. The basis for this action is that the measure will provide for and assist in the attainment of the carbon monoxide standard in New York City. The reader is referred to a Technical

Support Document to this notice for a more detailed discussion.

1. The SIP's CO hotspot control program for Groups III and IV is not being implemented in a manner that provides for the attainment of the standards by end of 1987. This is because: (1) New York State is behind schedule in developing a control program for hardcore hotspot sites, (2) additional measures are necessary to attain the CO standard at several of these sites, (3) several non-hardcore sites that were previously identified as being in attainment of the CO standard are shown to need additional measures to attain the standard by the end of 1987, and (4) the EIS review process has identified persistent CO violations near the projects at locations not previously identified. One of these projects, the "Washington Street 6th Amended Plan," requires additional resources for implementation of its mitigating measures. These resources are not identified.

2. The commitment to develop and implement some areawide control measures is not adequate. Although the implementation dates listed in the submittal are either imminent or have already passed, there is no indication if any of the milestones have been met.

3. FEISs and the air quality monitoring network continue to confirm that the CO problem is more widespread than originally indicated in the SIP. As noted earlier, air quality monitoring and a FEIS analysis have revealed violations at Group I sites previously predicted to be in attainment of the standard. FEISs completed in 1985 have also identified additional violations.

4. The way EISs are used for tracking growth is different from that committed to in the SIP. The SIP contains a commitment that, "if an EIS for a project identifies a violation or exacerbation of the carbon monoxide standard, then the city commits to assure that mitigating measures will be implemented by the project sponsor or city, so as to provide for attainment of the standard by December 31, 1987 and maintenance of it thereafter."

The RFP report states that, "Candidate hotspots identified in 1985 FEISs which have not been project caused will be analyzed as part of our Group V hotspots study." This means that some violations of the CO standard that are predicted in 1985 FEIS are not being identified in the RFP report. The SIP commitment does not make this distinction between project-caused and nonproject-caused CO violations. It states that mitigation measure will be developed for violations identified by EISs.

## VII. Findings

Based on the preceding discussion, EPA is proposing to disapprove the Group III and Group IV revisions to the New York SIP for attainment of the CO standards in the New York City portion of the New York City metropolitan area. EPA proposes to approve those carbon monoxide control measures previously listed in Tables 4 and 5. EPA also proposes to approve the control measures listed in Table 6 should New York adopt them after further studies. If the deficiencies discussed are not remedied before EPA takes final action, EPA will be required to disapprove New York's revision.

Disapproval could lead to a finding by EPA that the State has failed to implement the requirements of the CO SIP for the New York City portion of the New York City metropolitan area. Such a finding carries the possibility of restrictions on federal funding under sections 178 (related to air program grants funding), and section 316(b) (related to sewage treatment finding) of the Clean Air Act. In addition, such finding could result in the imposition of a construction moratorium pursuant to section 173(4) of the Act. Before deciding whether New York has failed to implement its SIP and whether any of the above sanctions should be imposed, EPA will publish a notice of proposed rulemaking separately from this notice and will provide an opportunity for formal comment.

Alternatively, failure to remedy the deficiencies identified herein before EPA takes final action may also contribute to a finding under section 110(a)(2)(H) of the Act by EPA that the CO SIP for the New York City metropolitan area is "substantially inadequate" to attain the CO standards. As a result, EPA seeks comment on whether and to what extent the deficiency of the Group III/IV measures affects the adequacy of the CO SIP. EPA's eventual decisions regarding the SIP's adequacy will necessarily be tied to the continuing development of EPA's national policy for post-1987 attainment of the ozone and CO national ambient air quality standards (see 52 FR 26404, 26410 (July 14, 1987)).

Interested persons are invited to comment on any element of the subject Group III/IV hotspot revision. Comments received within 60 days after publication of this notice will be considered in EPA's final decision.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

## List of Subjects in 40 CFR Part 52

Air pollution control, and Carbon monoxide.

Authority: 42 U.S.C. 7401-7642.

Date: August 7, 1987.

Editorial note.—This document was received at the Office of the Federal Register on September 6, 1988.

Christopher J. Daggett,  
Regional Administrator, Environmental Protection Agency.

[FR Doc. 88-20510 Filed 9-9-88; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for *Phyllitis scolopendrium* var. *Americana* (American Hart's-Tongue Fern)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to determine threatened status for the American hart's-tongue fern. This rare fern is known from only two sites in Alabama, one in Tennessee, four in Michigan, nine in New York, and from a limited areas in southern Ontario, Canada. It is threatened throughout most of its range by trampling, habitat alteration, or destruction by lumbering, residential development, and quarrying. This proposal, if made final, would extend the protection of the Endangered Species Act of 1973 (Act), as amended, to American hart's-tongue fern. The Service seeks data and comments from the public.

**DATE:** Comments from all interested parties must be received by November 14, 1988. Public hearing requests must be received by October 27, 1988.

**ADDRESSES:** Comments, and materials, and requests for public hearing concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert R. Currie at the above address [704/259-0321 or FTS 672-0321].

**SUPPLEMENTARY INFORMATION:****Background**

*Phyllitis scolopendrium* (L.) Newman variety *americana* Fernald (American hart's-tongue fern) has evergreen, strap-shaped fronds that are 5 to 17 inches long (12 to 42 cm),  $\frac{3}{4}$  to  $1\frac{1}{4}$  inches wide (2 to 4.5 cm) and are auriculate (lobed) at their base. The green petiole portion of the frond is 1 to 5 inches long (3 to 12 cm) and has cinnamon-colored scales on its surface. The sori (groups of spore-producing reproductive structures called sporangia) are linear in shape and occur on the underside of the blade portion of the frond. The fronds arise in a cluster from a short, creeping rhizome which is covered with cinnamon-colored scales (Evans 1981, Lellinger 1985). Ferns recognized as belonging to the species *Phyllitis scolopendrium* (earlier referred to as *Scolopendrium vulgare*) were first discovered in the United States in 1807 when Pursh found the species growing in central New York (Maxon 1900).

*Phyllitis scolopendrium* was described by Linneus in 1753 and is common in the British Isles and is rare to frequent in Europe (Love 1954, Small 1938). In 1849, Gattinger discovered the species in Roane County, Tennessee (Maxon 1900), and in 1857, Hincks found it in Grey County, Ontario, Canada (Soper 1954). Fernald described the taxon *Phyllitis scolopendrium* var. *americana* in 1935. He distinguished it from the European variety on the basis of several distinct morphological features. These features include smaller fronds, fewer and shorter indusia (coverings over the sori), the presence of elongate tips on the frond's veinlets, and the distance of the veinlets from the edge of the frond (Fernald 1935).

Britton (1953) determined that, in addition to the morphological characters described by Fernald, the North American representatives of *Phyllitis scolopendrium* differed from the European plants cytologically in having 144 rather than 72 chromosomes.

Lellinger (1985) also notes that *Phyllitis scolopendrium* var. *scolopendrium* is much more easily cultivated than is *Phyllitis scolopendrium* var. *americana*. Love and Love (1973) included the American hart's-tongue fern within their concept of *Phyllitis japonica* Kom. and designated it ssp. *americana* (Fern.) Love and Love. Some authors (e.g., Kartesz and Kartesz [1980]) include the genus *Phyllitis* within *Asplenium*. Neither of these treatments have been widely accepted in the United States.

Lellinger's 1985 treatment which maintains the genus *Phyllitis* and includes American hart's-tongue fern in the European rather than the Japanese species is followed here.

Two additional States were added to the known range of the species: In 1953, Hall and Hegenah discovered ferns, which were then recognized as the distinct taxon *Phyllitis scolopendrium* var. *americana*, growing in Chippewa County, Michigan (Hegenah 1953). In 1979, Osterlund, Batchelder, and Short discovered them in Jackson County, Alabama (Batchelder 1979, Short 1979).

In North America *Phyllitis scolopendrium* var. *americana* is usually found growing on or at least in close association with dolomitic limestone (limestone high in magnesium). This extremely rare fern is currently known from only seven counties in the Canadian Province of Ontario, two counties in New York, one county in Michigan, two counties in Alabama, and one county in Tennessee. In the northern part of its range it usually occurs on or adjacent to limestone outcrops. The southern populations are only found within limestone pits that trap cold air, have high humidity, and are well shaded. At all known locations, American hart's-tongue fern appears to require high humidity, shaded conditions, a moist substrate, and the presence of dolomitic limestone.

In the 181 years that have elapsed since first being discovered in North America, American hart's-tongue fern has remained an extremely rare taxon that is found in small, widely disjunct groups of populations. Concern for the continued existence of this species has long been voiced by those interested in the preservation of the flora of the United States. This concern is demonstrated by early articles such as Benedict's 1925 "Saving the Hart's Tongue," House's 1934 "Saving the Scolopendrium Fern," and Faust's 1960 "Survival of Hart's-tongue Fern in Central New York." *Phyllitis scolopendrium* var. *americana* remains vulnerable to extinction throughout most of its range. A description of the status of the species in each North American State or province in which it occurs is provided below:

**Alabama.** There are two known populations of American hart's-tongue fern in Alabama. Both populations were discovered by cavers associated with the Huntsville Grotto of the National Speleological Society (Batchelder 1979, Evans 1982). One population occurs in a Jackson County sinkhole that is on lands managed as a National Wildlife Refuge by the Service. Short (1979) observed 20

plants present when he first visited the site. Evans (1981) found that the population had dwindled to nine plants by July 1981. Evans further states that this population appears, for undetermined reasons, to be in static or declining condition. The other population is in the privately owned pit entrance to a limestone cave. This Morgan County population is located about 25 miles (40 km) southwest of the Jackson County population (Short 1980). Evans (1981) reports that this is a vigorous, healthy, reproducing population, which in 1981 supported 97 plants (26 fertile adults, 13 subadults, and 58 juveniles).

**Tennessee.** Tennessee has two records of American hart's-tongue fern. The first of these was discovered in the entrance to a Roane County cave by Gattinger in 1849. Despite repeated searches for the plant at this site since the early 1900s, it has not been seen again and is considered to be extirpated from the area (Maxon 1900, Shaver 1954, Evans 1981). The only extant Tennessee population was discovered by Cheatham in 1879 (Williamson 1879, Evans 1981). Originally supporting about 200 plants, this population has contained only about 17 plants in the recent past (Evans 1981). Early concern about the decline of this population led Graves in 1929 to scatter American hart's-tongue fern spores at the site. The spores were obtained from a plant collected in Ontario, Canada (McGilliard 1936). There appears to be no method of distinguishing Tennessee from Canadian representatives of this taxon; therefore, it is impossible to know the origin of the few plants that survive there. From 1982 to the present time the site has been leased by The Nature Conservancy for the express purpose of protecting this species.

**Michigan.** The Michigan Natural Features Inventory recognizes four extant populations of American hart's-tongue fern (Sue Crispin, Michigan Natural Features Inventory, personal communication, 1986). All of these sites are in Mackinac County. One additional site in Chippewa County has not supported the plant since 1983, and it is believed that the species is extirpated from the county. Of the four remaining populations, two are owned by the Michigan Nature Association. Both of the association's populations are healthy and support several hundred plants each. One population of approximately 25 plants is on land managed by the U.S. Forest Service (Hiawatha National Forest). This population supported 64 plants in 1981, and, in an effort to protect the remaining

individuals, the Forest Service has rerouted a trail which traverses the area. The last population is on privately owned, unprotected land in fairly close proximity to the two populations owned by the Michigan Nature Association (Sue Crispin, personal communication, 1986; Nepstad 1981; Futyma 1980; Hegenah 1953 and 1956).

**New York.** The plight of *Phyllitis scolopendrium* var. *americana* in New York has been carefully documented since the early 1900s (Hunter 1922; Faust 1960; Cinquemani *et al.*, in press). The delineation of individual populations provided here is that used by the New York Natural Heritage Program (*Clemants in litt.*). Their identification of populations is based primarily upon Faust (1960) and Hunter (1922).

The fern is known from a limited area within Madison and Onondaga Counties. Thirteen populations are currently recognized by the program; three of these are in Madison County and 10 are or were in Onondaga County.

Four of the 10 Onondaga County populations are believed to be extirpated. Three of these were destroyed by quarrying operations between 1924 and 1935 and one by undetermined means soon after 1959. Four populations are small and vulnerable containing 1, 9, 50, and 167 individuals, respectively. The remaining two populations are the largest in New York and indeed are the largest populations in the United States. These two populations are located in a State park, and in 1986 they contained a combined total of approximately 2,800 individuals (Cinquemani *et al.*, in press).

Madison County supports three populations. Two of these, containing 12 and 15 plants respectively, are on unprotected privately owned lands. The third, which contained 40 plants in 1980, is within a State park. About half of the plants that were originally in the park were destroyed before 1980 by trail construction and subsequent erosion.

**Canada.** *Phyllitis scolopendrium* var. *americana* is listed as a rare species in the Atlas of the Rare Vascular Plants of Ontario. Although locally abundant in the center of its range in Grey County, it was included in the Atlas "\*\*\*\*" because most of its world population occurs in the Province. On a continental basis, this is a very small area and all of the peripheral populations in the United States are at risk" (Dickson and White 1983). Adjacent southern Bruce County also supports healthy populations of the taxon. Much smaller and more isolated populations occur in Peel, Halton, Dufferin, and Simcoe Counties (Soper 1954, Britton *in litt.*). A population located near Niagara Falls in Welland

County may have been extirpated by human activities or may have disappeared for other reasons (Hinds *in litt.*). Soper (1954) states that this population may have been transplanted to the site in the late 1800s. No plants have been observed there since 1925 (Dickson and White 1983).

Fernald (1970) includes New Brunswick in his description of the range of American hart's-tongue fern. However, Hinds (*in litt.*) states that the material collected in New Brunswick is the European variety and that the species is not believed to be native to the Province.

*Phyllitis scolopendrium* var. *americana* is threatened throughout most of its range by trampling, alteration, or destruction of its habitat by timber removal, quarrying, and residential or other development (Evans 1981, Nepstad 1981). Britton (*in litt.*) states that the most significant threats to the Canadian populations are "\*\*\*\* lumbering or development of the escarpment lands e.g. quarries, ski slopes, country estates, etc." on which it occurs.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), 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. On July 1, 1975, the Service published a notice (40 FR 27823) that formally accepted the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act. By accepting this report as a petition, the service also acknowledged its intention to review the status of those plant taxa named within the report. *Phyllitis scolopendrium* var. *americana* was included in the Smithsonian report and the July 1, 1975, Notice of Review. On June 16, 1976, the Service published a proposed rule (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act; *Phyllitis scolopendrium* var. *americana* was included in this proposal, which was later withdrawn.

The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn. On December 10, 1979 (44 FR 70796), the Service published a notice withdrawing plants proposed on June 16, 1976. *Phyllitis scolopendrium* var. *americana* was included as a category-2 species in the revised Notice of Review for Native Plants published on December 15, 1980 (45 FR 82480).

Category-2 species are those for which the service has information that indicates that proposing to list them as endangered or threatened may be appropriate but for which substantial data on biological vulnerability and threats are not currently known or on file to support the preparation of rules. This species was also included in category 2 when the Notice of Review for Native Plants was again revised in 1983 (48 FR 53640) and in 1985 (50 FR 39526). The service funded surveys in 1980 to determine the status of *Phyllitis scolopendrium* var. *americana* in Alabama, Tennessee, and Michigan, and final reports for these surveys were accepted by the service in 1981. Additional information on the status of the species throughout its range and on threats to its continued existence have now been obtained by the Service.

All plants included in the comprehensive plant notices are treated as under petition. Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make certain findings on 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 having been newly submitted on that date. This was the case for *Phyllitis scolopendrium* var. *americana* because of the acceptance of the 1975 Smithsonian report as a petition. In 1983, 1984, 1985, 1986, and 1987, the Service found that the petitioned listing of *Phyllitis scolopendrium* var. *americana* was warranted but precluded by other listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. Publication of this proposal constitutes the final 1-year finding.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Phyllitis scolopendrium* (L.) Newman var. *americana* Fernald (American hart's-tongue fern) (Syn. *Phyllitis japonica* Kom. ssp. *americana* Löve and Löve) are as follows:

**A. The present or threatened destruction, modification, or curtailment of its habitat or range.** American hart's-tongue fern is threatened throughout

most of its range by trampling, habitat alteration, or destruction by timber removal, quarrying or residential development. The southern populations are especially vulnerable to extirpation by inadvertent trampling because of their small size and the steep precarious nature of their habitat. Short (1979) reports that between October 21, 1978, and November 24, 1978, one of the 20 plants that occurred at the Jackson County, Alabama, site was destroyed by someone who had apparently slid off the main trail and onto the plant. Evans (1981) reports that in July 1981 only nine plants remained at this location.

Quarrying operations destroyed three of New York's populations and remain a threat to at least one of the remaining New York sites and two of the southern sites (Clemants *in litt.*, Evans 1981). Timber removal at most of the sites would be expected to raise light levels and lower humidity levels to the detriment of the species. Alterations associated with residential or other development would, in most cases, either directly destroy the plants present or result in environmental changes which make the sites unsuitable for American hart's-tongue fern. As previously stated, lumbering, quarrying, or other types of development are considered to be the most significant threats to the Ontario populations of the species.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** There is limited commercial trade in *Phyllitis scolopendrium* var. *americana*. The material currently in trade is believed to be of cultivated origin and not obtained from the wild populations. The original source of this material was one of the New York populations destroyed in the early 1900s by quarry operations (S. Clemants, New York Natural Heritage Program, personal communication, 1988). Most of the population in New York, Michigan, Alabama, and Tennessee are much too small to support any collecting for scientific purposes, for fern enthusiasts, or for other reasons. Inappropriate collecting remains a threat of these populations (Nepstad 1981). The larger Ontario populations have withstood, apparently without ill effects, low levels of collecting for some time (Pryer *in litt.*).

**C. Disease or predation.** Disease and predation are not known to be factors affecting the continued existence of the species at this time.

**D. The inadequacy of existing regulatory mechanisms.** *Phyllitis scolopendrium* var. *americana* is listed as endangered under Michigan's

Endangered Species Act and Tennessee's Rare Plant Protection and Conservation Act. In Michigan, taking is prohibited on all public and private lands; in Tennessee, taking is only restricted when the permission of the landowner or manager has not been obtained. In New York the species is protected under the Protected Native Plants Law, which states that removal of the fern without the landowner's permission is a violation of the law and subjects the violator to a \$25 fine. In Alabama the species does not receive any protection by the State.

Should the species be added to the Federal list of endangered and threatened species, additional protection from taking will be provided to the two populations on Federal lands. Protection from inappropriate commercial trade (utilizing plants of wild origin rather than cultivated material) would also be provided.

**E. Other natural or manmade factors affecting its continued existence.**

Because of climatic changes, the southern populations of the species are restricted to extremely rare sites with physical environments that duplicate the conditions under which the northern populations grow. During the glacial period, the species may have been more widespread in southern limestone areas; but as the climate has warmed, it has become restricted to a few sites in or near caves (Evans 1982).

Crispin (personal communication, 1986) reports that in 1985 an infestation of leaf miners destroyed the leaves in the trees above one of the Michigan sites. The loss of shade that resulted from this alteration of the canopy desiccated many of the ferns growing on the forest floor. Insect infestations that temporarily remove the leaves of the canopy or result in long-term damage to the trees found there remain a threat to species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Phyllitis scolopendrium* var. *americana* as a threatened species. Critical habitat is not being designated for the reasons discussed below.

**Critical Habitat**

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species, which is considered to be critical habitat, at the time the species is determined to be endangered or

threatened. Most populations of this species are small, and loss of even a few individuals to activities such as collection for scientific purposes could extirpate the species from some locations. Taking, without permits, is prohibited by the Act from locations under Federal jurisdiction; however, only two of the known populations are under Federal jurisdiction. Therefore, publication of critical habitat descriptions and maps would increase the vulnerability of the species without significantly increasing protection. The owners and managers of all the known populations of *Phyllitis scolopendrium* var. *americana* will be made aware of the plant's location and of the importance of protecting the plant and its habitat. No additional benefits would result from a determination of critical habitat. Therefore, the Service concludes that it is not prudent to designate critical habitat for *Phyllitis scolopendrium* var. *americana*.

**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 practices. 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 and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or results in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, 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 adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. All but two of the known populations of *Phyllitis scolopendrium* var. *americana* are on privately owned or State-owned land. One Alabama population is on land managed as a National Wildlife Refuge by the U.S. Fish and Wildlife Service, and one of the Michigan populations is on lands managed by the U.S. Forest Service. There are no known current or planned Federal activities that may affect this species.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued, since *Phyllitis scolopendrium* var. *americana* is 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, P.O. Box 27329, Central Station, Washington, DC 20038-7329 (202/343-4955).

#### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby

solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Phyllitis scolopendrium* var. *americana*;

(2) The location of any additional populations of *Phyllitis scolopendrium* var. *americana* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Phyllitis scolopendrium* var. *americana*.

Final promulgation of the regulation on *Phyllitis scolopendrium* var. *americana* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of this proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

#### 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 Mr. Robert R. Currie, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 672-0321).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Proposed Regulation Promulgation

Accordingly, it is hereby proposed 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: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Aspleniaceae, to the List of Endangered and Threatened Plants:

#### § 17.12 Endangered and threatened plants.

(h) \*

Species	Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Aspleniaceae—Spleenwort family:							
<i>Phyllitis scolopendrium</i> var. <i>americana</i>	American hart's-tongue fern		U.S.A. (AL, MI, NY, TN), Canada (Ont.)	T		NA	NA

Dated: August 11, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-20617 Filed 9-9-88; 8:45 am]

BILLING CODE 4310-55-M

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Florida Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

**SUMMARY:** The Service proposes to determine endangered status under the Endangered Species Act of 1973 (Act), as amended, for two plants of north-central Hernando County in central Florida. *Campanula robbinsiae* (Brooksville bellflower) is restricted to the margins of ponds and is threatened by residential development, mining, and drainage of its habitats. *Justicia cooleyi* (Cooley's water-willow) is restricted to hardwood forests and is threatened by clearance of the forests for pastures, residential development, and limestone mining. Critical habitat is not proposed. The known populations of these plants are on private, State, and federally owned lands. This proposal, if made final, would implement the protection and recovery provisions afforded by the Act, as amended for these two plants. The Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by November 14, 1988. Public hearing requests must be received by October 27, 1988.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. David J. Wesley, Field Supervisor, at the above address (telephone 904/791-2580 or FTS 946-2580).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Brooksville bellflower is a member of the bellflower family (Campanulaceae). It was discovered on the north slope of Chinsegut Hill in Hernando County, Florida, by John K. Small and Mrs. Raymond Robins in the spring of 1924 and was named *Campanula robbinsiae* by Small (1926), who later transferred the plant to his new genus *Rotantha* (Small 1933). Later, Shetler (1963) returned the plant to *Campanula* while noting that it was possibly a Eurasian species that had been introduced, perhaps accidentally, to Chinsegut Hill. Field work in the 1980's by Nancy Morin, Steven Leonard, Stanwyn Shetler, and others showed that the plant is not restricted to moist areas on Chinsegut Hill, but is primarily found on moist ground at the edges of

two ponds near the hill. Now that the bellflower's habitat is better known, it has become apparent that the plant is a native, narrowly endemic species (Wunderlin personal communication 1985).

*Campanula robbinsiae* is an annual herb with a slender taproot and slender, angled stems 1-15 centimeters (0.43-6.0 inches) tall. The largest leaves are at the base of the plant, ovate to elliptic, and 6-12 millimeters (.24-.47 inch) long. Leaves farther up the stem are narrower and shorter. The flowers are solitary with the sepals 1.0-2.5 millimeters (.04-.10 inch) long and the pale blue bell-shaped corolla 7-8 millimeters (.28-.31 inch) wide. Flowering is in March and April. The only other bellflower in Florida is *Campanula floridana*, a widespread species with shorter sepals and a longer corolla (Perkins 1979, Wunderlin *et al.* 1980a, Wunderlin 1982). *Campanula robbinsiae* is one of a number of low plants that occupy the edges of ponds; its abundance apparently fluctuates considerably from year to year depending on water levels. The ponds are adjacent to pastures grazed by cattle.

Cooley's water-willow is a member of the acanthus family (Acanthaceae). Specimens were collected in 1924 and 1934 by John K. Small and colleagues, and in 1957 by George Cooley. Monachino and Leonard (1959) recognized these specimens as a new species, *Justicia cooleyi*, distinct from the two other native water-willows in central Florida. Meagher (1974) confirmed this view. *Justicia cooleyi* is a

rhizomatous perennial herb with upright, quadrangular stems and usually less than 40 centimeters (16 inches) tall. The leaves are up to 5 centimeters (2 inches) long. The flowers are borne on forked, zigzag branches slightly longer than the leaves. The petals are fused into a two-lipped corolla with the lower lip slightly longer, 7-8 millimeters (.28-.31 inch) long. The lower lip is mottled lavender and white. The rest of the corolla is bright lavender-rose. Flowering occurs from August to December. A capsule 1.2 centimeters (.47 inch) long develops from the flower (Kral 1983, Perkins 1979).

The first collection of this water-willow was made in a "low hammock" or hardwood forest near Mascotte in Lake County. All subsequent collections have been from north central Hernando County on sand to clay soils that range from moist to seasonally wet. Some sites are on low rises in wet hammocks or swamps; most are on uplands or hills with trees such as southern magnolia, black gum, sweet gum, live oak, laurel oak, pignut hickory, cabbage palm, flowering dogwood, and yaupon holly. The understory may contain many ferns, woodland grasses, and sedges.

The extensive outcrops of limestone rock and the sinkholes in the Hernando County forests are unusual in the Florida peninsula and provide excellent habitat for ferns, including the tropical hammock fern (*Blechnum occidentale*), and the draft spleenwort (*Asplenium pumilum*), both considered endangered by the State. The terrestrial nodding-cap orchids *Triphora latifolia* and *Triphora craigheadii* are both endemic to hardwood forests in this part of Florida. Both are listed as threatened by the State and are candidates for Federal listing. Florida crabgrass (*Digitaria floridana*), a non-weedy endemic species that is a candidate for Federal listing, also occurs in these forests (data from Florida Natural Areas Inventory, September 1987).

Portions of the hardwood forests have been cleared for pastures. Selective cutting of trees for timber or to improve grazing for livestock probably does not adversely affect *Justicia cooleyi*, which is known to occur on a periodically mowed highway right-of-way (Kral 1983, file reports from The Nature Conservancy and the Florida Natural Areas Inventory, Wunderlin *et al.* 1980b).

The presently known localities for both *Campanula robiniae* and *Justicia cooleyi* are all on part of the Brooksville Ridge, a region with "the most irregular surface to be found in any area of comparable size in peninsular Florida" (White 1970). The region has few surface

streams, most drainage being to ponds and prairies in depressions and into sinkholes. Phosphate mining occurred in the area in the past; today, large limestone quarries produce both soft and hard rock, and cattle pasturing is widespread. Also residential development is increasing in the area.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on 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. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) that accepted the report as a petition in the context of section 4(c)(2) (now section 4(b)(3)) of the Act, as amended. On June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant species recommended by the Smithsonian Report to be endangered species pursuant to section 4 of the Act. *Campanula robiniae* and *Justicia cooleyi* were included in the Smithsonian Report; the July 1, 1975, notice; and the June 6, 1976, proposal.

The 1978 Endangered Species Act Amendments required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposal already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the June 6, 1976, proposal, along with four other proposals which had expired (44 FR 70796).

On December 15, 1980, the Service published a notice of review for plants (45 FR 82479), which included *Campanula robiniae* as a category-1 candidate (a species for which data in the Service's possession indicate listing is appropriate). *Justicia cooleyi* was included as a category-2 candidate (a species for which data in the Service's possession indicate listing is possibly appropriate, but for which additional biological information is needed to support a proposed rule). A supplement to the 1980 notice of review published on November 28, 1983 (48 FR 53640) treated *Campanula robiniae* as a category-2 candidate, based on uncertainty about the taxonomic status of the plant (Shelter 1963, Wunderlin *et al.* 1980a). *Justicia cooleyi* was treated as a category-1 candidate, based on a status report received from Wunderlin *et al.* (1980b). An updated notice of review published on September 27, 1985 (50 FR 39525), maintained these two plants as candidates in the same categories: 2-*Campanula robiniae*, 1-*Justicia cooleyi*. A letter from Wunderlin (*in litt.* 1985),

received too late for the updated notice, suggested that recent field work on *Campanula robiniae* had generated "sufficient information to prepare a proposal for listing the species as endangered."

Section 4(b)(3)(B) of the 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 all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Campanula robiniae* and *Justicia cooleyi* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, October 12, 1984, October 11, 1985, October 10, 1986, and October 9, 1987, the Service found that the petitioned listing of these species was warranted, and that, although pending proposals had precluded their proposal, expeditious progress was being made to list these species. Publication of the present proposal constitutes the final 1-year finding that is required on or before October 13, 1988.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Campanula robiniae* Small (Brooksville bellflower), and for *Justicia cooleyi* Monachino and Leonard (Cooley's water-willow) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitats or ranges.* The known localities for *Justicia cooleyi* and *Campanula robiniae* are in north central Hernando County, including Annuteliga Hammock near U.S. Highway 98. Some of the original hardwood forest in this area has been converted to pastures, as shown on topographic maps. Limestone quarries occupy at least ten square miles. A residential subdivision occupies 26 square miles, including part of Annuteliga Hammock. Smaller subdivisions and rural residences are encroaching on other areas of forest. Hernando County was the second fastest-growing county in the nation from 1980 to 1986, growing by 74.8

percent in the period, according to a Census Bureau report (*The New York Times*, September 1, 1987). The University of Florida, Bureau of Economic and Business Research confirms that this rapid growth is continuing, with the 1987 population estimated to have increased 79.3 percent over 1980, for a total of 79,718 (*Jacksonville Times-Union*, August 26, 1987).

*Justicia cooleyi* is native to the hardwood forest in Hernando County, although two of the seven known sites are in modified forest, one on a wide highway right-of-way among a group of trees and the other in an unusual seepage area in a cattle pasture on Chinsegut Hill. The small number of known sites, despite searches by capable field botanists (including Steven Leonard for the Florida Natural Areas Inventory), indicates that any further loss of suitable habitat would seriously threaten the continued existence of the species.

*Campanula robinsiae* is known to occur only at three sites. One site, with few plants is in the seepage area with *Justicia cooleyi* on Chinsegut Hill. The site has been used as a pasture for many years and no changes in land management are anticipated. The two principal populations are at the margins of two "prairies" or ponds with seasonally fluctuating water levels. Changes in land use in the watersheds surrounding the prairies have the potential to affect water levels in the ponds by increasing the quantity of runoff; runoff water from developed areas may also be contaminated by petroleum products, fertilizers, and herbicides. Therefore, while there appears to be little danger of destruction of this plant's habitat, adverse modification of the habitat constitutes a serious threat to *Campanula robinsiae*.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** *Justicia cooleyi* is not of interest as an ornamental (Robert McCartney, pers. comm. 1986), but it occurs at the same site as a rare fern that is vulnerable to collection by fern enthusiasts, so it is inadvisable to publicize the exact localities of the *Justicia*.

The Florida National Areas Inventory treats data on *Campanula robinsiae* as sensitive because the plant is restricted to only 3 sites and it is vulnerable to overcollecting and vandalism.

**C. Diseases or Predation.** Not applicable.

**D. The inadequacy of existing regulatory mechanisms.** *Justicia cooleyi* and *Campanula robinsiae* are listed as endangered under the Preservation of

Native Flora of Florida Act (Section 581.185-187, Florida Statutes), which regulates taking, transport, and sale of plants but does not provide habitat protection. *Justicia cooleyi* is protected on the Nature Conservancy's Robins Memorial Forest Preserve, and this private and public conservation organization is seeking to conserve both species on private land through its landowner contact program. Listing under the Act will augment private conservation measures for these plants.

**E. Other natural or manmade factors affecting their continued existence.** The restricted geographic ranges of these plants, and their specialized habitats, exacerbate the risks posed by the preceding four factors, making it very possible that either species could become extinct in the absence of organized conservation measures.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Campanula robinsiae* and *Justicia cooleyi* in determining to propose this rule. Based on this evaluation, the preferred action is to list both species as endangered. Both plants are narrowly endemic to a geographic area where agriculture, mining, and residential development have already altered a large portion of the original vegetation. Because there is no rangewide provision to ensure protection of the remaining habitat, both species are in danger of becoming extinct in all or a significant portion of their ranges. Critical habitat is not proposed for either species for the reasons described in the next section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Campanula robinsiae* or *Justicia cooleyi* at this time.

Publication of critical habitat descriptions and maps would increase the degree of threat from trampling or taking by vandals and curiosity seekers. Publication of precise localities for *Campanula robinsiae* is especially undesirable because the plant is restricted to three very small areas that could easily be damaged or ruined by trampling or collecting.

Designation of critical habitat affects only Federal agencies. The only Federal agency which manages land in the habitats of these plants is the U.S.

Department of Agriculture (Subtropical

Agricultural Research Station). Past management by this agency has not adversely affected the plants. Adequate future protection can be assured on the two Federally-owned tracts without determining critical habitat. All involved parties and land owners will be notified of the location and importance of protecting this species habitat. Because designation of critical habitat increases the threat of taking or other human activity, and offers no protection not provided by the listing alone, the Service finds that designation of critical habitat is not prudent for *Justicia cooleyi* or *Campanula robinsiae* at the present time.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. 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 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)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) 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.

Because most sites for the two plants are privately or State owned, the

Service anticipates few conferences or consultations, unless Federal ownership or mineral rights is found to extend beneath or near one of the sites and if phosphate mining or limestone quarrying is proposed in such areas. Otherwise, the only Federal land on which they are known to occur at present is managed by the Department of Agriculture whose past practices have been consistent with the needs of the species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Certain exceptions can 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 species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued, because neither *Campanula robiniae* nor *Justicia cooleyi* is raised for horticultural purposes. 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, P.O. Box 27329, Central Station, Washington, DC 20038-7329 (202/343-4955).

#### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental 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 lack thereof) to *Campanula robiniae* or *Justicia cooleyi*;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned activities in the range and habitats of these species and their possible impacts on these species.

Final promulgation of the regulation on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Jacksonville Field Office, Fish and Wildlife Service, 3100 University Boulevard South, Jacksonville, Florida 32216.

#### 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 (49 FR 49244).

#### References Cited

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Wunderlin, R.P., D. Richardson, and B. Hansen. 1980b. Status report on *Justicia cooleyi*. Unpublished report prepared for U.S. Fish and Wildlife Service. 21 pp.

#### Author

The primary author of this proposed rule is David Martin, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Jacksonville, Florida 32216 (904/791-2580 or FTS 946/2580).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Proposed Regulations Promulgation

#### PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, 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					
Acanthaceae—Acanthus family: <i>Justicia coolyi</i> .	Cooley's water-willow	U.S.A. (FL)	E		NA	NA
Campanulaceae—Bellflower family: <i>Campanula robinsiae</i> .	Brooksville bellflower	U.S.A. (FL)	E		NA	NA

Dated: August 11, 1988.

**Susan Recce,**

Assistant Secretary for Fish and Wildlife and  
Parks.

[FR Doc. 88-20615 Filed 9-9-88; 8:45 am]

BILLING CODE 4310-55-M

# Notices

Federal Register

Vol. 53, No. 176

Monday, September 12, 1988

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 COMMERCE

### International Trade Administration

[A-588-801]

#### Preliminary Determination of Sales at Less Than Fair Value: Certain All-Terrain Vehicles From Japan

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that certain all-terrain vehicles (ATVs) from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of certain ATVs from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by November 21, 1988.

**EFFECTIVE DATE:** September 12, 1988.

#### FOR FURTHER INFORMATION:

Contact Michael Ready or Louis Apple, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230, telephone: (202) 377-2613 or 377-1769.

#### SUPPLEMENTARY INFORMATION:

##### Preliminary Determination

We preliminarily determine that certain ATVs from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since our notice of initiation (53 FR 7222, February 29, 1988), the following events have occurred. On March 25, 1988, the ITC determined that there is reasonable indication that a U.S. industry is materially injured by reason of imports of certain ATVs (USITC Publication 2073, March 1988).

On April 8, 1988, we presented questionnaires to four Japanese manufacturers and exporters of ATVs. These companies account for 100 percent of exports of the subject merchandise from Japan to the United States. On May 3, 1988, one of the manufacturers, Kawasaki Heavy Industries, Ltd. (Kawasaki), advised that it would not be replying to the questionnaire. The other three manufacturers were given additional time to reply to the questionnaire.

We received replies to the questionnaire from Honda Motor Co., Ltd. (Honda), on May 2, May 9, and June 3, 1988. Replies were received from Yamaha Motor Co., Ltd. (Yamaha) on April 27, and May 24, 1988. Suzuki Motor Co., Ltd. (Suzuki) submitted replies on April 27 and June 6, 1988.

We sent deficiency letters to the three responding manufacturers during the period from May 11 to June 17, 1988. Additional deficiency letters were sent to respondents during July and August. Responses to all deficiency letters were received by the Department prior to this determination.

On June 22, 1988, and again on July 14, 1988, petitioner requested that the preliminary determination be postponed.

On June 29, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to August 8, 1988 (53 FR 25360, July 6, 1988). On July 20, 1988, in accordance with the above-referenced section of the Act, we further postponed the preliminary determination to September 8, 1988 (53 FR 28031, July 26, 1988).

On July 14, 1988, petitioner requested that the Department initiate a cost of production investigation pursuant to section 773(b) of the Act to determine whether the three respondents were selling their ATVs at prices below the cost of production. On August 23, 1988, after determining from available information that there were reasonable grounds to believe or suspect that sales

of ATVs in Canada were being made at less than their cost of production, we presented the three respondents with a cost of production questionnaire. Replies to this questionnaire will not be received in time to be considered for this preliminary determination. Analysis of the replies may be taken into account for the final determination.

#### Scope of Investigation

The products covered by this investigation are certain all-terrain vehicles (ATVs), provided for in item 692.1090 of the *Tariff Schedules of the United States Annotated (TSUSA)* and classifiable under subheading 8703.21.0000 of the Harmonized Tariff Schedule.

Certain all-terrain vehicles (ATVs) are motor vehicles designed for off-pavement use by one operator and no passengers and contain internal combustion engines of less than 1000cc cylinder capacity. The ATVs under investigation are non-amphibious, have three or four wheels and weight less than 600 pounds. They have a seat designed to be straddled by the operator and handlebars for steering control.

#### Period of Investigation

The period of investigation is September 1, 1987, through February 29, 1988.

#### Such or Similar Comparisons

For all respondent companies, pursuant to section 771(16)(C) of the Act, we established two categories of "such or similar" merchandise: (1) Three-wheel ATVs; and (2) four-wheel ATVs. As noted below, none of the three respondents had sufficient home market sales in either such or similar category to serve as the basis for calculating foreign market value. We therefore based foreign market value on sales to a third country, Canada. The percentages of each respondent's total sales to the United States that were used for such or similar comparisons were: 71.2 percent for Honda; 85.6 percent for Yamaha; and, 92.7 percent for Suzuki. We have not made cross-model comparisons of ATVs for purposes of this preliminary determination; instead, we have limited our comparisons to those models sold in both markets.

### Fair Value Comparisons

To determine whether sales of ATVs from Japan to the United States were made at less than fair value, we compared the United States price to the foreign market value as specified below. As noted above, one of the manufacturers, Kawasaki, did not reply to the questionnaire. Therefore, we have determined, consistent with the best information available provisions of section 776(c) of the Act, that it is appropriate for this preliminary determination to assign to Kawasaki the higher of either: (1) The highest margin indicated for Kawasaki in the petition; or, (2) the highest weighted-average margin found for any company that did respond to the questionnaire. Following this approach, for this preliminary determination, we have assigned Kawasaki the highest margin indicated for Kawasaki in the petition.

### United States Price

For all sales by Honda, Yamaha, and Suzuki, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, because in each case the sale to the first unrelated purchaser took place after importation into the United States. We calculated exporter's sales price based on packed, f.o.b. seller's warehouse prices to unrelated purchasers in the United States. We made deductions, where appropriate, for brokerage and other export expenses in Japan, inland freight in Japan, ocean freight, marine insurance, U.S. customs duty and user's fees, inland freight and related expenses to seller's warehouse in the United States, discounts, rebates, assembly and inspection allowance, credit expense, advertising expense, warranty expense, and, pursuant to section 772(e)(2) of the Act, indirect expenses and inventory carrying expenses incurred in both Japan and the United States. An addition was made, where applicable, for interest charged the customer.

### Foreign Market Value

In order to determine whether there were sufficient sales of ATVs in the home (Japanese) market to serve as the basis for calculating foreign market value, we compared the volume of home market sales within each such or similar category to the volume of third-country sales within each respective such or similar category. For each of the three respondents, for both such or similar categories, we found that home market sales were insufficient to serve as the basis for foreign market value. For each respondent, we found that Canada was

the appropriate third-country market to serve as the basis for foreign market value for both such or similar categories. In accordance with section 773 of the Act, for Honda, Yamaha, and Suzuki, we calculated foreign market value based on packed f.o.b. seller's warehouse or delivered prices to unrelated purchasers in Canada. We made deductions, where appropriate, for brokerage and other export expenses in Japan, inland freight in Japan, ocean freight, marine insurance, Canadian customs duty, Canadian Federal Sales Tax, inland freight and related expenses to seller's warehouse in Canada, discounts, rebates, inland freight from seller's warehouse to customer, credit expenses, warranty expenses, and advertising expenses. We offset indirect selling expenses incurred on Canadian sales up to the amount of selling expenses incurred on sales in the U.S., in accordance with § 353.15(c) of our regulations. An addition was made, where applicable, for interest charged the customer.

In order to adjust for differences in packing between the two markets, we deducted Canadian packing costs from the foreign market value and added U.S. packing costs.

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the Regulations.

### Currency Conversion

Since all U.S. sales were exporter's sales price transactions, we used the official exchange rates in effect on the date of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at rates certified by the Federal Reserve Bank of New York.

### Verification

We will verify the information used in making our final determination in accordance with section 776(b) of the Act.

### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain ATVs from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market

value of the ATVs from Japan exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Honda Motor Co., Ltd.....	5.11
Yamaha Motor Co., Ltd.....	6.75
Suzuki Motor Co., Ltd.....	4.01
Kawasaki Heavy Industries, Ltd.....	35.43
All Others.....	10.23

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivilege and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination or 45 days after the final determination, if affirmative.

### Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 24, 1988, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, pre-hearing briefs in at least ten copies, both public and non-public versions, must be submitted to the Assistant Secretary by October 17, 1988. Oral presentations will be limited

to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,  
Assistant Secretary for Import  
Administration.

September 2, 1988.

[FR Doc. 20626 Filed 9-9-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-803]

**Preliminary Determination of Sales at Less Than Fair Value: Digital Readout Systems and Subassemblies Thereof From Japan**

**ACTION:** Notice.

**SUMMARY:** We have preliminarily determined that digital readout (DRO) systems and subassemblies thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of DRO systems and subassemblies thereof from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by November 21, 1988.

**EFFECTIVE DATE:** September 12, 1988.

**FOR FURTHER INFORMATION CONTACT:**  
Contact Raymond Busen or Louis Apple, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 377-3464 or 377-1769.

**SUPPLEMENTARY INFORMATION:**

**Preliminary Determination**

We have preliminarily determined that DRO systems and subassemblies thereof from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margin of sales at less than fair value is shown in the "Suspension of Liquidation" section of this notice.

**Case History**

Since our Notice of Initiation (53 FR 13302, April 22, 1988) the following events have occurred. On May 12, 1988, the ITC determined that there is a reasonable indication that a U.S. industry is materially injured by reason of imports of DRO systems and subassemblies (USITC Publication 2081, May 1988).

On May 24, 1988, questionnaires were presented to Mitutoyo Manufacturing Co., Ltd. (Mitutoyo) and Sony Magnescale, Inc. (Magnescale), who accounted for a substantial portion of the exports to the United States during the period of investigation. Mitutoyo was requested to answer section A by June 7 and sections B, C, and E by June 23, 1988. Magnescale was requested to respond to section A by June 7 and sections B and C by June 23, 1988. The respondents were given additional time to respond to sections B and C of the questionnaire.

We received replies to the questionnaire from Mitutoyo on June 7, June 23, and July 8, 1988. Replies were received from Magnescale on June 8 and July 8, 1988.

On June 14, 1988, Mitutoyo requested that we change its six-month reporting period from October 1, 1987 through March 31, 1988 to September 21, 1987 through March 20, 1988, to coincide with its record keeping. On June 20, 1988, we granted Mitutoyo's request.

We sent deficiency letters to Magnescale on June 21 and July 19, 1988. Responses to our deficiency letters to Magnescale were received by the Department prior to this determination. Deficiency letters were sent to Mitutoyo on June 21, July 13, and July 15, 1988. The July 13, 1988 letter included a request for Mitutoyo to respond to section D by August 3, 1988. On September 6, 1988, Mitutoyo responded to our section E deficiency letter but failed to respond to our request to answer section D.

On August 2, 1988, Mitutoyo requested that the Department (1) exclude its U.S.-assembled transducers from the investigation, (2) relieve Mitutoyo from answering section D (cost of production information), and (3) withdraw the July 13, 1988 letter.

On August 9, 1988, we informed Mitutoyo that the August 3, 1988 due date for responding to our section E deficiency letter and answering section D had elapsed and that, in accordance with section 776(c) of the Act, we may have to base our preliminary determination for sales that involve further manufacture in the United States on best information available. Furthermore, if we did not receive the

requested information by the September 6, 1988 preliminary determination date, we may also have to base our final determination for those sales on the best information available.

On August 11, 1988, we responded to Mitutoyo's August 2 letter. We stated that all sales must be reported and reiterated the statement in our August 9 letter that we may use best information available for both the preliminary and final determinations if a response is not received by September 6, 1988.

**Scope of Investigation**

The products covered by this investigation are digital readout (DRO) systems, whether assembled or unassembled, and subassemblies thereof. An unassembled DRO system includes a console and a transducer (glass scale, magnetic, rotary encoder, but not laser), and parts thereof, destined for use in a DRO system and imported into the United States either together or separately for assembly and sale as a DRO system. Subassemblies and parts thereof include consoles, and parts of consoles, destined for use in DRO systems.

The products are currently provided for in item 710.8080 of the *Tariff Schedules of the United States Annotated* (TSUSA) and are classifiable under subheading 9031.80.0080 of the Harmonized Tariff Schedule.

DRO systems generally consist of an electronic console and one measurement transducer for each axis of linear or rotational displacement to be measured, and provide linear or rotational displacement information for high precision industrial equipment such as metalworking machine tools.

**Fair Value Comparisons**

To determine whether sales of DRO systems and subassemblies thereof from Japan in the United States were made at less than fair value, we compared the United States price with the foreign market value. For those unreported sales by Mitutoyo that involve further manufacturing in the United States, we used the best information available as required by section 776(c) of the Act for the reasons stated in the "Case History" section of this notice. In such cases, it is our policy to assign to the non-relying company the higher of: (1) The highest margin indicated for the non-relying company in the petition; or, (2) the highest weighted-average margin found for any company that did respond to the questionnaire. Following this policy, for this preliminary determination, we have assigned Mitutoyo the highest margin indicated in the United States.

Virtually all of the respondents' sales to the United States were used for such or similar comparisons.

The period of investigation for DRO systems and subassemblies from Japan was September 21, 1987 through March 20, 1988 for Mitutoyo and October 1, 1987 through March 31, 1987 for Magnescale.

#### United States Price

For all sales by Mitutoyo, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, since the first sale to an unrelated customer was made after importation. We calculated ESP based on packed, ex-warehouse or delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, U.S. brokerage and handling charges, U.S. inland freight, credit, technical, warranty, and advertising expenses, and other U.S. selling expenses pursuant to sections 772(e) (1) and (2) of the Act.

For all sales by Magnescale, we based United States price on purchase price because the merchandise was sold to an unrelated U.S. purchaser prior to its importation. We calculated purchase price based on the CIF packed prices. We made deductions for foreign inland freight and insurance, foreign brokerage and handling, ocean or air freight, and insurance.

#### Foreign Market Value

For sales by Mitutoyo, we calculated foreign market value based on packed, delivered prices to unrelated purchasers in Japan. We made deductions, where appropriate, for inland freight and insurance, installation charges, discounts and rebates, and credit, technical, warranty and advertising expenses. We deducted indirect selling expenses incurred on home market sales up to the amount of indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.15(c) of our regulations. In accordance with § 353.16 of our regulations, where there was no identical product in the home market with which to compare a product in the United States, we made adjustments to the foreign market value of similar merchandise to account for differences in the physical characteristics of the merchandise.

For sales by Magnescale, we calculated foreign market value based on packed, delivered prices to unrelated

purchasers in Japan. We made deductions, where appropriate, for foreign inland freight and insurance, discounts, and rebates. In accordance with § 353.15 of our regulations, we made adjustments for differences in circumstances of sale for credit, warranty, and advertising expenses.

For both respondents, in order to adjust for differences in packing between the two markets, we deducted home market packing costs from foreign market value and added U.S. packing costs.

#### Currency Conversion

We made currency conversions in accordance with § 353.56(a) (1) and (2) of our regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

#### Verification

As provided in section 776(b) of the Act, we will verify all information (including Mitutoyo's sales involving further manufacture if received by September 6, 1988) used in reaching the final determination in this investigation.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of DRO systems, whether assembled or unassembled, and subassemblies thereof from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Mitutoyo Manufacturing Co., Ltd.....	46.45
Sony Magnescale, Inc.....	44.81
All others.....	46.01

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary

information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, then the ITC will determine no later than 120 days after the date of this preliminary determination or 45 days after the final determination, whichever is later, whether these imports are materially injuring, or threaten material injury to, a U.S. industry.

#### Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 17, 1988, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, pre-hearing briefs in at least ten copies, both public and non-public versions, must be submitted to the Assistant Secretary by October 11, 1988. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,

Assistant Secretary for Import Administration.

September 2, 1988.

[FR Doc. 88-20627 Filed 9-9-88; 8:45 am]

BILLING CODE 3510-DS-M

**National Institute of Standards and Technology**

[Docket No. 80341-8133]

**Approval of Federal Information Processing Standard (FIPS) 151, Posix; Portable Operating System Interface for Computer Environments**

**AGENCY:** National Institute of Standards and Technology (NIST), Commerce.

**ACTION:** Announcement of Federal Information Processing Standards Publication 151, POSIX: Portable Operating System Interface for Computer Environments.

**SUMMARY:** The purpose of this notice is to announce that the Secretary of Commerce has approved a Federal Information Processing Standard which will be published as FIPS 151. This standard has been adopted on an interim basis to enable the Federal government to proceed with procurement actions needed to acquire advanced technology at the least cost to the government. The standard will enable Federal agencies to utilize the POSIX specification in developing systems for applications portability. A FIPS adopting final voluntary industry specifications for POSIX will be proposed when those specifications are completed. The applications portability profile included in the Appendix to this FIPS will be further developed by NIST.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, and an Appendix which provides an initial plan for developing an Applications Portability Profile in cooperation with industry and users, and (2) a specifications section (IEEE 1003.1/

POSIX, Draft 12) which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

A delayed effective date is not required for this FIPS because this standard is exempt from the Administrative Procedure Act by 5 U.S.C. 553(a)(2).

**DATE:** This standard is effective September 12, 1988. Agencies may use this standard immediately. The elements identified in the Appendix should be considered in planning for future procurements.

**ADDRESS:** Interested parties may purchase copies of this standard, including the technical specifications portion, from the National Technical Information from NTIS. Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger Martin, Institute for Computer Sciences and Technology, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975-3295.

Ernest Ambler,  
*Director.*

Date: September 6, 1988.

**Federal Information Processing Standards Publication 151 [date], Announcing the Standard for POSIX, Portable Operating System Interface for Computer Environments**

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Pub. L. 100-235.

**Name of Standard.** POSIX: Portable Operating System Interface for Computer Environments.

**Category of Standard.** Software Standard, Operating Systems.

**Explanation.** This publication announces the adoption of Draft 12 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Portable Operating System Interface for Computer Environments (IEEE 1003.1/POSIX) as a Federal Information Processing Standard (FIPS) on an interim basis. IEEE 1003.1/Draft 12 defines a C language source interface to an operating system environment. This standard is for use by computing professionals involved in system and application software development and

implementation. This standard is the first component of a series of specifications needed for application portability. The Appendix to this standard discusses the elements needed in an Applications Portability Profile and provides a schedule for the additional specifications.

**Approving Authority.** Secretary of Commerce.

**Maintenance Agency.** U.S. Department of Commerce, National Institute of Standards and Technology (Institute for Computer Sciences and Technology).

**Cross Index.** The Institute of Electrical and Electronic Engineers Standard for Portable Operating System Interface for Computing Environments, IEEE 1003.1/Draft 12 (POSIX).

**Related Documents.**

a. Federal Information Resources Management Regulation 201-8.1, Federal ADP and Telecommunications Standards.

b. Draft Proposed American National Standard X3J11/87-140, "Programming Language C".

**Objectives.** This FIPS permits Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of this FIPS are:

a. To promote portability of computer application programs at the source code level.

b. To simplify computer program documentation by the use of a standard portable system interface design.

c. To reduce staff hours in porting computer programs to different vendor systems and architectures.

d. To increase portability of acquired skills, resulting in reduced personnel training costs.

e. To maximize the return on investment in generating or purchasing computer programs by insuring operating system compatibility.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard specifications.

**Applicability.** This FIPS should be used for operating systems that are either developed or acquired for Government use where POSIX-like interfaces are required. This FIPS is applicable to the entire range of computer hardware, e.g.:

a. Micro-computer systems.

b. Mini-computer systems.

c. Engineering workstations.

d. Mainframes.

**Specifications.** The POSIX FIPS specifications are the specifications

contained in the Institute of Electrical and Electronics Engineers Standard for Portable Operating System Interface for Computer Environments, IEEE 1003.1/Draft 12 (POSIX) as modified below. IEEE 1003.1/Draft 12 defines a C language source code level interface to an operating system environment. IEEE 1003.1/Draft 12 refers to and is a complement to draft ANSI standard X3J11/87-140, C Language, which is under development by Accredited Standards Committee X3. IEEE 1003.1/Draft 12 requires specific areas of ANSI X3J11/87-140, C Language, to complete the environment specification for portable application software.

The following modifications to IEEE 1003.1/Draft 12 Standard for Portable Operating System Interface for Computer Environments are required for implementations of POSIX that are acquired by Federal agencies:

a. A null pathname shall be considered invalid and generate an error (2.10.3, lines 894-896).

b. The use of the chown() function shall be restricted to a process with appropriate privileges (2.10.4, lines 924-926).

c. Only a user with appropriate privileges shall be allowed to link or unlink directories (2.10.4, lines 938-939).

d. The owner of a file may use the utime() function to set file timestamps to arbitrary values (2.10.4, lines 943-945).

e. The implementation shall support a value of {NGROUPS-MAX} greater than or equal to eight (8) (2.9.2).

f. The implementation shall support the setting of the group-ID of a file (when it is created) to that of its parent directory (2.10.4, lines 934-937).

g. The use of chown() shall be restricted to changing the group-ID of a file to the effective group-ID of a process or when {NGROUPS-MAX}>0, to one of its supplementary group-IDs (2.10.4, lines 927-930).

h. The exec() type functions shall save the effective user-ID and group-ID (2.10.3, lines 902-903).

i. The kill() function shall use the saved set user-ID of the receiving process instead of the effective user-ID to determine eligibility to send the signal to a process (2.10.3, lines 891-893).

j. When a session process group leader executes an exit() a SIGHUP signal shall be sent to each member of the session process group (2.10.3 lines 880-883).

k. The terminal special characters defined in Sections 7.1.1.10 and 7.1.2.7 can be individually disabled by using the value specified by -POSIX-V-DISABLE (2.10.4, lines 946-949; 7.1.1.10; 7.1.2.7).

l. The implementation shall support the -POSIX-JOB-CONTROL option (2.10.3, lines 884-886).

m. The implementation shall provide support for both the CPIO and USTAR data interchange formats (10.; Appendix D).

n. Pathname components longer than {NAME-MAX} shall be considered invalid and generate an error (2.10.4, lines 940-942).

o. When the rename(), unlink() or rmdir() function is unsuccessful because the conditions for [EBUSY] occur, the implementation shall report the [EBUSY] errno (5.5.1.4, lines 481-482; 5.5.2.4, lines 523-524; 5.5.3.4, lines 593-594).

p. When the rename() function is unsuccessful because the conditions for [EXDEV] occur, the implementation shall report the [EXDEV] errno (5.5.3.4, lines 593-594).

q. When the fork() or exec type function is unsuccessful because the conditions for [ENOMEM] occur, the implementation shall report the [ENOMEM] errno (3.1.1.4, line 54; 3.1.2.4, lines 175-176).

r. When the getcwd() function is unsuccessful because the conditions for [EACCES] occur, the implementation shall report the [EACCES] errno (5.2.2.4, lines 148-149).

s. When the chown() or wait2() function is unsuccessful because the conditions for [EINVAL] occur, the implementation shall report the [EINVAL] errno (3.2.1.4, line 272; 5.6.5.4, line 857).

t. The tcsetattr() function shall only set the parameters supported by the underlying hardware associated with the terminal (7.2.1.2, line 502).

**Note:** If tcsetattr() is called with a parameter within the termios structure set to a new value not supported by the terminal device file associated with fildes, tcsetattr() shall return successfully. A subsequent call to tcgetattr() will return the original value of the parameter within the termios structure.

u. If a write() is interrupted by a signal after it successfully writes some data, it shall return the number of bytes written (6.4.2.2, lines 195-196).

v. The write() function shall return -1 and set errno to [EINTR] when the write() operation was terminated due to the receipt of a signal and no data was transferred (6.4.2.4, lines 240-242).

**Implementation.** This standard is effective (please insert date of publication in the Federal Register). The other elements identified in the Appendix should be considered in planning for future procurements.

a. *Acquisition of a Conforming Portable Operating System Environment.* Operating system environments which are to be acquired

for Federal use after the publication date of this standard and which have applications portability as a requirement should use this FIPS. Conformance to this FIPS should be considered whether the operating system environments are:

1. developed internally,
2. acquired as part of an ADP system procurement,
3. acquired by separate procurement,
4. used under an ADP leasing arrangement, or
5. specified for use in contracts for programming services.

b. *Interpretation of the FIPS for Portable Operating System Interface for Computer Environments.* NBS provides for the resolution of questions regarding the FIPS specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this FIPS should be addressed to:

Director, Institute for Computer Sciences and Technology, Attn: POSIX FIPS Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899.

c. *Validation of Conforming Operating Systems Environments.* NBS has developed cooperatively with industry a validation suite for measuring conformance to this standard. This suite will be required for testing conformance of POSIX implementations. Requirements for testing will be announced in the near future.

**Where to Obtain Copies:** Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the Institute of Electrical and Electronics Engineers, Incorporated.) When ordering, refer to Federal Information Processing Standards Publication 151 (FIPS PUB 151), and title. Payment may be made by check, money order, or deposit account.

## Appendix A

POSIX, as currently defined, is the crucial first step in providing a vendor independent interface specification between an application program and an operating system. The current definition, however, must be extended in order to provide interface specifications for full operating system functionality. These additional interface specifications must include:

(1) *Shell and Tools:* These functions provide an interactive interface for users to control processing. Example: listing the files in a directory.

(2) *Advanced Utilities*: These utilities provide additional capabilities and specialized functions that make users and programmers more productive. Example: full-screen editing.

(3) *System Administration*: These functions are required to operate the system. Example: mount a file system.

(4) *Terminal Interface Extensions*: These functions are called by application programs. They enable programs to perform interactive terminal operations in a way that is independent of the type of terminal being used. Example: turn on attributes such as blinking characters or reverse video.

POSIX, when fully extended, will provide the functionality required to support source code portability for a wide range of applications across many different machines and operating systems. However, even the extended POSIX will not be sufficient to achieve portability for all applications.

There is increasing recognition of the need for an architectural approach to applications portability. This recognition has come about because earlier attempts to use a language-based approach to applications portability were not successful. Language portability is only one aspect of the problem of porting applications software from one operating system environment to another. Applications software portability depends on additional factors which include:

(1) Characteristics of the underlying hardware/software, (e.g. word length, input/output (I/O) architecture, processor, operating system).

(2) Portability of software utilities used by the application, (e.g. data base management, graphics, operating system functions, and communications).

(3) Data form, format and representation that may need to be transported with the software, and

(4) Language implementation (compiler/interpreter/processor) including specific limits or subsets of the language used in programming, (e.g. magnitude of number of subscripts and number of labels).

Unless each of these factors is addressed as part of an overall architecture, the benefits of applications portability will not be fully realized.

A planned Applications Portability Profile (APP) has been developed to provide sufficient functionality to accommodate a broad range of application requirements. The functional components of the APP constitute a "tool box" of standard elements that can be used to develop and maintain portable applications. A key aspect of the APP is that it is an open systems architecture based upon non-proprietary

standards. The current planned components of the APP are summarized in Figure 1 and described in the following paragraphs. Additional components may be added as technology changes and as Federal government requirements change.

#### *Database Management*

Database management is an important aspect of applications portability. A growing number of organizations use a Database Management System (DBMS) to allow application programs, written in a variety of languages, to work on the same basic data. In addition, a DBMS can facilitate language independence in the design, development, and maintenance of data resources.

FIPS 127, Database Language SQL, and the proposed FIPS for Information Resource Dictionary Systems (IRDS) are the initial components to meet the database management requirement.

#### *Data Interchange*

In addition to the mechanism for managing data, the data itself is an important aspect of applications portability. In many situations, the problems associated with porting the applications software from one system to another pales in comparison to the problem of porting the data. There are three categories of particular concern regarding data interchange:

- Business Graphics.
- Product Data.
- Document Processing.

FIPS 120, Graphical Kernel System (GKS) and FIPS 128, Computer Graphics Metafile (CGM) are the initial components to meet the business graphics requirements. Initial Graphics Exchange Specification (IGES) is the initial component to meet the requirements to exchange product data. Standard Generalized Markup Language (SGML) and Office Document Architecture/Office Document Interchange Format (ODA/ODIF) are the initial components to meet the requirements for document processing.

#### *Network Services*

There are two basic network services that should be provided:

File Management is an integral part of most applications. File management functions have traditionally focused on accessing data within a local file system. That focus has now shifted to functions that permit shared access to files in a heterogeneous environment of computer hardware, software, and networks. A standard approach to managing this shared access to remote files is an important aspect of software portability.

Failure to provide shared access to remote files will inevitably lead to local, incompatible approaches that inhibit application portability.

Network File System (NFS) is the initial component to meet file management facility requirements.

Data Communications facilities permit interoperability among applications in a heterogeneous environment of computer hardware, software, and networks. The requirement to manage shared access to remote files is just part of a larger requirement for applications software to perform its functions in a network environment. Here again, failure to provide this function will inevitably lead to local, incompatible approaches that inhibit applications portability.

Government Open Systems Interconnection Profile (GOSIP) is the initial component to satisfy the data communications requirements.

#### *User Interface*

The most neglected aspect of applications software portability is the requirement to maintain a consistent user interface across all systems on which the application resides. The fact that the application is likely to be distributed over a heterogeneous environment of computer hardware, software, and networks means that the user interface facility must provide the flexibility to allow the user to interact with programs within such an environment.

The X Window System is the initial component to meet user interface requirements.

#### *Programming Languages*

The most emphasized aspect of applications software portability is the requirement for programming language portability from one system to another. The major problem is that programming language portability is often equated with applications software portability. A key requirement for programming languages is that a sufficient variety be included to encompass the full range of application requirements.

The C language binding is the initial component for programming language interfaces. Additional bindings will be developed for FORTRAN, COBOL, Ada, and Pascal.

Function	Element	Specification
Operating System.	POSIX.....	IEEE P1003.1.
Data Base Management.	SQL..... IRDS.....	IEEE P1003.2. FIPS 127. X3.138 (proposed FIPS).

Function	Element	Specification
Data Interchange:		
—Business Graphics.	GKS & CGM ..	FIPS 120, 128.
—Product Data.	IGES .....	NBSIR 86-3359.
—Document Processing.	SGML .....	ISO 8879-1986.
Network Services:		
—Data Communications.	ODA/ODIF .....	ISO/DIS 8613.
—File Management.	OSI .....	GOSIP.
User Interface .....	NFS .....	IEEE P1003.X.
Languages .....	X Window System.	X3H3.6.
	C .....	X3J11 draft X3.159.
	COBOL .....	FIPS 021-2.
	FORTRAN .....	FIPS 069-1.
	Ada .....	FIPS 119.
	Pascal .....	FIPS 109.

Figure 1—Applications Portability Profile

#### Schedule

While NBS will continue to work with both national and international standards organizations to produce the needed specifications, current federal requirements dictate immediate action. In order to meet this need NBS will adopt a series of specifications based on emerging national and international standards.

These specifications will include interface specifications for (1) Shell and Tools, (2) Advanced Utilities, (3) System Administration, and (4) Terminal Interface Extensions, (5) X Window System, and (6) NFS. These specifications will be added to the profile according to the following schedule:

4th Quarter FY88—Shell and Tools, Advanced Utilities, System Administration, Terminal Interface Extensions.

1st Quarter FY89—X Window System, NFS.

The components of the APP represent varying stages of maturity. Some have not been introduced into the formal standards process (i.e. X Window System), others exist only as draft standards (e.g. POSIX), and others have been adopted as national and international standards (e.g. SQL). As these standards mature there will be a need to update the APP to reflect the changes that will occur. NBS will establish a process to ensure that the APP incorporates the evolving (maturing) consensus of the national and international standards activities for

each of the functional components of the APP. In addition, specifications for bindings for languages and other APP components may be required. NBS will identify the need for these bindings and augment the APP as required.

Both users and vendors will be included in this process through an ongoing series of user workshops and implementor workshops which will provide forums for feedback and comments on the evolving APP. The user workshops will be designed to (1) provide users with information about the progress of defining the APP and (2) provide NBS with input and feedback on the evolving APP and what priorities should be given to the various functional components. The Implementors Workshops will provide a forum in which to discuss the evolving APP with the vendors and to get feedback on the technical merits of the proposals. These implementor workshops will be designed to ensure that there is a general consensus on the part of vendors to commit to building products to the evolving APP specifications.

[FR Doc. 88-20595 Filed 9-9-88; 8:45 am]  
BILLING CODE 3510-CN-M

#### National Oceanic and Atmospheric Administration

##### Endangered Marine Mammals; Application for Permit; Dr. William A. Watkins (70D)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. *Applicant:* Dr. William A. Watkins, Senior Research Specialist, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts 02543.

2. *Type of Permit:* Scientific Research.  
3. *Name of Marine Mammals:* Right Whale (*Balaena glacialis*).

4. *Type of Take and Number:* Six (6) right whales will be radio tagged with the WHOI HG radio tag with its ADF tracking capability allowing consistent identification of individuals at every surfacing, and computer recording and tracking of signals. Twelve (12) animals may be harassed during tagging operations. Individual whales may be

re-approached up to ten (10) times during maneuvering for tagging position.

5. *Location of Activity:* U.S. Coastal and International Waters.

6. *Period of Activity:* 3 years.

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 Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, 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 application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the application are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Room 805, 1825 Connecticut Avenue, NW., Washington, DC; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Bldg., Gloucester, Massachusetts 01930.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

Date: August 31, 1988.

[FR Doc. 88-20597 Filed 9-9-88; 8:45am]

BILLING CODE 3510-22-M

#### COMMISSION ON MERCHANT MARINE AND DEFENSE

##### Meeting

**SUMMARY:** The Commission on Merchant Marine and Defense was established by Pub. L. 98-525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation,

and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the following meeting:

**Dates and Times:** Monday, September 19, 1988, Beginning 9:00 a.m.; Tuesday, September 20, 1988, Beginning 9:00 a.m.

**Place:** Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22302-0268.

**Type of Meeting:** Closed.

**Contact Person:** Allan W. Cameron, Executive Director, Commission on Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22302-0268, Telephone (202) 756-0411.

**Purpose of Meeting:** To receive additional information pertaining to the needs of the national defense for the Merchant Marine and the shipbuilding industry, and to discuss and to deliberate facts and opinions obtained from briefings and public hearings.

**SUPPLEMENTARY INFORMATION:** The executive meetings of the Commission will be closed to the public pursuant to 5 U.S.C. 552b(c)(1) and 552b(c)(4) in the interests of national security and to protect proprietary information provided to the Commission in confidence.

**Allan W. Cameron,**  
Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 88-20631 Filed 9-9-88; 8:45 am]

BILLING CODE 3820-01-M

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

##### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

September 6, 1988.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 13, 1988.

**AUTHORITY:** EO 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. 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) 535-9481. For information on embargoes and quota re-openings, call (202) 377-3715.

**SUPPLEMENTARY INFORMATION:** The current limits for certain cotton and man-made fiber textile products from Mexico are being adjusted for swing, carryforward applied and carryforward used.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see *Federal Register* notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 7961, published on March 11, 1988.

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.

**James H. Babb,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

##### Committee For The Implementation of Textile Agreements

September 6, 1988.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 7, 1988, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the period which began on January 1, 1988, and extends through December 31, 1988.

Effective on September 13, 1988, the directive of March 7, 1988 is hereby amended to adjust the limits for the following categories, as provided under the provisions of the current bilateral agreement between the Governments of the United States and the United Mexican States:

Category	Adjusted 12-Mo Limit <sup>1</sup>
334	76,300 dozen.
336/636	196,200 dozen.
341/641	825,033 dozen of which not more than 305,200 dozen shall be in Categories 341-Y/641-Y <sup>2</sup> .
342/642	316,100 dozen.
347/348	2,343,500 dozen.
359-C <sup>3</sup>	1,744,000 pounds.
669-P <sup>4</sup>	1,417,000 pounds.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1987.

<sup>2</sup> In Categories 341-Y/641-Y, only TSUSA numbers 384.0505, 384.0511, 384.0512, 384.4608, 384.4610, 384.4612 and 384.4788 in Category 341-

and 384.2302, 384.2304, 384.2307, 384.9110 and 384.9120 in Category 669.

<sup>3</sup> In Category 359-C, only TSUSA number s381.0822, 281.6510, 384.0928 and 384.5222.

<sup>4</sup> In Category 669-P, only TSUSA number 385.5300.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 88-20608 Filed 9-9-88; 8:45 am]

BILLING CODE 3510-DR-M

#### COMMODITY FUTURES TRADING COMMISSION

##### Agricultural Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, DC headquarters located at Room 532, 2033 K Street, NW, Washington, DC 20581, on October 3, 1988, beginning at 9:00 a.m. and lasting until 3:30 p.m. The agenda will consist of:

##### Agenda

1. Opening remarks by Commissioner Kalo Hineman and CFTC Chairman Wendy Gramm;

2. Market surveillance issues, including drought related agricultural market volatility;

3. Speculative limits and aggregation issues, including a report on experience to date with the new agricultural contract speculative limits and review of new aggregation rules;

4. Off-exchange contracts issues, including report by CFTC staff and reports by Committee members on the utilization of minimum price guarantee contracts;

5. Livestock contract issues, including report by NCA representative concerning NCA Task Force on Cattle Futures;

6. Status report on agricultural options;

7. Report on CFTC-USDA liaison, including USDA 40-county futures/options pilot program;

8. Preview of issues relevant to next year's Congressional reauthorization of the Commission; and

9. Discussion of other issues for potential Committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objectives of the Advisory Committee are more fully set forth in the May 13, 1987 second renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Kalo A. Hineman, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Agricultural Advisory Committee c/o Charles O. Conrad, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Mr. Conrad in writing at the latter address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on September 7, 1988.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-20697 Filed 9-9-88; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF DEFENSE

Public Information Collection  
Requirement Submitted to OMB for  
Review

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title, Applicable Form, and  
Applicable OMB Control Number:* DoD  
FAR Supplements Part 15, Related  
Clauses in Part 52.215 and Related  
Forms; OMB Control Number 0704-0232.  
*Type of Request:* Revision.

*Average Burden Hours/Minutes Per  
Response:* 6.369 hours.

*Frequency of Response:* On Occasion.

*Number of Respondents:* 202,540.

*Annual Burden Hours:* 1,772,900.

*Annual Response:* 202,615.

*Need and Uses:* The information collection concerns 4 areas: (1) Certain data required to enable evaluation of contractors' offers under the negotiated method of contracting; (2) information necessary to develop proposals to participate in the Industrial Modernization Incentives Program (IMIP); (3) information necessary to develop and maintain an adequate estimating system; and (4) information necessary to ensure that the Government does not pay prices for commercial spare and repair parts that exceed that lowest commercial sales prices at which such items are sold to the general public unless the price differences are justified.

*Affected Public:* Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone (202)746-0933.

*L.M. Bynum,*

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

September 6, 1988.

[FR Doc. 88-20606 Filed 9-9-88; 8:45 am]

BILLING CODE 3810-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3444-8]

**Environmental Impact Statements and  
Regulations; Availability of EPA  
Comments**

Availability of EPA comments prepared August 22, 1988 through August 26, 1988 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) 382-5074. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the *Federal Register* dated April 22, 1988. (53 FR 13318).

### Draft EISs

*ERP No.: D-AFS-E650036-00, Rating  
EC2, Coastal Plain/Piedmont National  
Forests and Grasslands Vegetation  
Management Plan, Implementation, U.S.  
Forest Service Southern-Region, AL, GA,  
FL, SC, NC, LA, MS and TX. SUMMARY:*  
EPA has identified a number of potential environmental impacts on air and water quality which should be addressed further in the final EIS. Of particular concern are the impacts of the sediment produced by management activities and the herbicide used on water quality. EPA believes that "Alt C", based on its low intensity mechanical and herbicide use, is the environmentally preferable alternative.

*ERP No.: D-COE-C30008-NJ, Rating  
EC2, Sandy Hook to Barnegat Inlet  
Beach Erosion Control Project, Section  
I-Sea Bright to Ocean Township,  
Implementation, Northern End of New  
Jersey's Atlantic Coast, Monmouth  
County, NJ. SUMMARY:* EPA has environmental concerns regarding potential impacts to water quality and benthos. Additional information regarding these issues is requested in the final EIS.

*ERP No.: D-COE-E32068-AL, Rating  
EC2, Bayou La Batre Navigation  
Channel Improvements, Implementation,  
Mobile County, AL. SUMMARY:* EPA has found that the proposed channel deepening will provide a source of "new-work" material which could be used to provide some temporary relief to the erosion of the wetland on adjacent shoreline/nearshore features. EPA is concerned that an opportunity will be lost to positively impact the environment if full use is not made of this new work material to retard the erosion currently being experienced in the project area.

*ERP No.: D-SCS-H36101-IA, Rating  
LO, Soap Creek Watershed Protection  
and Flood Reduction Plan, Funding and  
Implementation, Des Moines River,  
Appanoose, Davis, Monroe and Wapello  
Counties, IA. SUMMARY:* EPA has no objections to the project as proposed.

*ERP No.: D-SCS-H36102-00, Rating  
LO, Pony Creek Watershed Protection  
and Flood Prevention Plan, Funding and  
404 Permits, Missouri River Basin,  
Brown and Nemaha Counties, KS and  
Richardson County, NB. SUMMARY:* EPA

has no objections to the project as proposed.

**ERP No.: D-USA-A10057-00, Rating EC2, Nationwide Biological Defense Research Program Continuation, Implementation.** **SUMMARY:** EPA recommended that the Army develop or document administrative controls for the programs activities at non-DOD sites to better show environmental protection and compliance. EPA pointed out that disinfectants and other pesticides must be used according to the EPA-approved label.

#### Final EISs

**ERP No.: F-BOP-G81002-TX, Three Rivers Federal Correctional Institution Complex, Construction and Operation, Live Oak County, TX.** **SUMMARY:** EPA has no obligations to the proposed action as described.

**ERP No.: F-COE-C36061-PR, Rio de la Plata Basin, Flood Protection Plan, Implementation, Dorado-Toa Baja Area, PR.** **SUMMARY:** EPA's review of this document concluded that the project is unsatisfactory from the standpoint of environmental quality due to its potential impacts to wetlands.

Additionally, EPA believes that the final EIS does not fulfill the intent of NEPA, and that it is unresponsive and inadequate. Accordingly, EPA requests that the Corps prepare a supplemental final EIS.

**ERP No.: F-COE-H32009-00, Mississippi River Locks and Dam 26 Replacement Construction, Second Lock, Implementation, Upper Mississippi and Illinois Rivers, Alton, Madison County, Illinois and St. Louis County, MO.** **SUMMARY:** Because of incomplete/ unavailable information, EPA cannot concur that the proposed project will result in minor impacts, but will not object to project initiation with the understanding that the St. Louis District Corps of Engineers will complete a Plan of Study for identifying impacts, initiate studies identified in the Plan of Study and assess the need for mitigation.

Dated: September 6, 1988.

William D. Dickerson,  
Deputy Director, Office of Federal Activities.  
[FR Doc. 88-20645 Filed 9-9-88; 8:45 am]  
BILLING CODE 6560-50-M

#### FEDERAL MARITIME COMMISSION

##### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments and protests are found in § 560.7 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

*Agreement No.: 224-200151.*

*Title: GulfPort Terminal Agreement.*

*Parties:*

Mississippi State Port Authority (MSPA)

Carter-Green-Reed, Inc. (CGR)

*Synopsis:* The proposed agreement provides for CGR's lease from MSPA of berthing and parking area and a holding facility/shed at Gulfport, Mississippi for the conduct of a cruise ship operation by CGR.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,  
Assistant Secretary.

Dated: September 7, 1988.

[FR Doc. 88-20635 Filed 9-9-88; 8:45 am]

BILLING CODE 6730-01-M

#### FEDERAL RESERVE SYSTEM

##### Agency Forms Under Review

September 6, 1988.

##### Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

##### FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202-452-3822).

OMB Desk Officer—Robert Neal, Jr.— Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, (202-395-7340).

*Final approval under OMB delegated authority of the extension, without revision, of the following*

1. *Report Title:* Notification Pursuant to § 211.23(h) of Regulation K on Acquisitions Made by Foreign Banking Organizations.

*Agency Form Number:* FR 4002.

*OMB Docket Number:* 7100-0110.

*Frequency:* On occasion (estimated average of two per year).

*Reporters:* Foreign banking organizations.

*Annual Reporting Hours:* 160.

*Estimated Number of Respondents:* 160.

*Average Hours Per Response:* 0.5.

Small businesses are not affected.

##### General Description of Report

This report is required by law (12 U.S.C. 1844 and 3106), and confidential treatment may be requested.

Foreign banking organizations (FBOs) must inform the Board of shares acquired in companies engaged in activities in the U.S. and of direct and indirect U.S. activities commenced by a subsidiary of the FBO.

Board of Governors of the Federal Reserve System, September 6, 1988.

William W. Wiles,  
*Secretary of the Board.*

[FR Doc. 88-20590 Filed 9-9-88; 8:45 am]

BILLING CODE 6210-01-M

**Credit International Bancshares, Ltd., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the

Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 30, 1988.

**A. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Credit International Bancshares, Ltd.*, Washington, DC; to become a bank holding company by acquiring 100 percent of the voting shares of Credit International Bank, National Association, Washington, DC.

**B. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Peoples Bancshares, Inc.*, Elba, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Elba, Alabama.

**C. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Iowa National Bankshares Corp.*, Waterloo, Iowa; to acquire 100 percent of the voting shares of Oelwein State Bank, Oelwein, Iowa.

**D. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Buena Vista Bancorp, Inc.*, Chester, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Buena Vista National Bank, Chester, Illinois.

2. *Waterloo Bancshares, Inc.*, Waterloo, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial State Bank of Waterloo, Waterloo, Illinois.

**E. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Duke Financial Group, Inc.*, St. Paul, Minnesota; to acquire 100 percent of the voting shares of Citizens State Bank of Montgomery, Montgomery, Minnesota.

**F. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FirsTier Financial Inc.*, Omaha, Nebraska; to acquire 100 percent of the voting shares of Norfolk Bancshares, Inc.,

Norfolk, Nebraska, parent of Delay First National Bank and Trust Co., Norfolk, Nebraska.

Board of Governors of the Federal Reserve System, September 6, 1988.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 88-20592 Filed 9-9-88; 8:45 am]

BILLING CODE 6210-01-M

§ 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Federal Reserve Bank listed. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than October 3, 1988.

**A. Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, DC 20551:

1. *Banco National de Mexico*, Mexico City, Mexico, Banamex Holding Company, Los Angeles, California, and Ammex Holding Company, Los Angeles, California; to establish a branch. Banamex International, Houston, Texas. Banamex International will operate additional branches in New York, New York, Chicago, Illinois, and Los Angeles, California. This application may be inspected at the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, September 6, 1988.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 88-20594 Filed 9-9-88; 8:45 am]

BILLING CODE 6210-01-M

**Kermit State Bancshares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities**

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected

**Banco National De Mexico et al.; Establishment of a U.S. Branch of a Corporation**

An application has been submitted by a corporation organized under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), for the Board's approval of the establishment of a branch. The branch would operate as a subsidiary of the parent company. The factors that are to be considered in acting on the application are set forth in

to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 3, 1988.

**A. Federal Reserve Bank of Dallas**  
(W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

**1. Kermit State Bancshares, Inc.**, Kermit, Texas; to acquire Computer Center, Inc., Monahans, Texas, and thereby engaged in providing to others financially related data processing and data transmission services, facilities and data bases, or access to them, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

**2. Monahans Bancshares, Inc.**, Monahans, Texas; to acquire Computer Center, Inc., Monahans, Texas, and thereby engaged in providing to others financially related data processing and data transmission services, facilities and data bases, or access to them, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 6, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-20593 Filed 9-9-88; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Ethics Advisory Board; Notice of Establishment

**AGENCY:** Department of Health and Human Services.

**ACTION:** Request for public comment.

**SUMMARY:** The Department of Health and Human Services is establishing an Ethics Advisory Board. The Secretary invites comment on the proposed new Ethics Advisory Board Charter attached to this notice.

**DATE:** Written comments are invited and must be received on or before November 14, 1988.

**ADDRESS:** Written comments should be addressed to: Ann Dulaney, Special Project Officer, Office of Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Building 31, Room, 4B09, Bethesda, Maryland 20892, telephone: (301) 496-7005, where all comments received will be available for inspection weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m.

**SUPPLEMENTARY INFORMATION:** Regulations promulgated by the Department in 1975 (45 CFR 46, Subpart B) require one or more ethical advisory boards to review specific research activities before the Department is permitted to fund such activities. In February 1978, then Department of Health, Education and Welfare Secretary Califano appointed members of the Department's newly-chartered Ethical Advisory Board from nominations submitted by professional associations, scientific societies, public interest groups and members of Congress. The Board was balanced in composition with respect to age, geography, sex, background, and expertise. During its existence, the Board completed and forwarded to the Secretary four reports.

Under the Biomedical Research and Research Training Amendments of 1978 (Pub. L. 95-622), Congress established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research which, among other things, was to report on the protection of human subjects of such research. The Health Education and Welfare Ethics Advisory Board was dissolved in 1980 as the result of an agreement between the Department and the Senate Appropriations Committee to transfer Department funds to the newly created President's Commission.

The President's Commission completed its work in 1983, and published 11 reports containing many recommendations for action by the Department of Health and Human Services. Virtually all of the major recommendations of those reports have been incorporated into Department of Health and Human Services policies or regulations.

Ethical issues are playing an increasingly prominent role in biomedical and behavioral research, and the Department believes that such issues can not be adequately assessed by an *ad hoc* advisory process. Therefore, the Department is

establishing an Ethical Advisory Board in accord with 45 CFR 46, Subpart B to provide advice to the Secretary on ethical issues in medicine and research as they relate to the Department's activities.

Attachment.

Dated: September 7, 1988.

Otis R. Bowen,  
*Secretary.*

### Proposed Charter Ethics Advisory Board Purpose

The purpose of the Ethics Advisory Board is to provide advice to the Secretary of Health and Human Services and the Assistant Secretary for Health on ethical issues as they relate to the Department's activities in health care and medicine, including biomedical and behavioral research.

**Authority:** 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended.

This Board is governed by the provisions of Pub. L. 92-463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

### Functions

The Ethics Advisory Board shall advise, consult with, and make recommendations to the Secretary and the Assistant Secretary for Health regarding the ethics of specific Department projects or activities; the appropriateness of the Department's programs, policies, agency assignments, missions, guidelines and regulations dealing with ethical matters relating to biomedical and behavioral research practice; and the ethical issues raised by individual research applications or proposals and groups of applications or proposals.

The Board shall advise and consult with the Secretary and the Assistant Secretary for Health on the ethical acceptability of the conduct and funding of specific proposals or classes of proposals for research involving human subjects that may be sponsored by the Department.

In order to respond to requests of the Secretary and the Assistant Secretary for Health, the Board may conduct inquiries, hold hearings, and establish subcommittees on proposed policies, regulations and requirements; on the interpretation, applicability, administration, and effectiveness of Departmental regulations, policies and requirements concerning ethical issues in medicine and biomedical and behavioral research; and on the implementation of safeguards for the

protection of the rights and welfare of human subjects.

#### Structure

The Ethics Advisory Board shall consist of 21 members, including the Chairperson. Appointments shall be made by the Secretary from authorities knowledgeable in the fields of law, ethics, medicine, social and behavioral science, and from the general public, each of whom shall have special qualifications and competence to deal effectively with ethical issues of concern to the Department. At least one member shall be an attorney, at least one member shall be an ethicist, at least one member shall be a practicing physician, and at least one member shall be a theologian. No less than one third, nor more than one half of the total membership shall be distinguished scientists, physicians and other health professionals, each with substantial research, medical, or public health accomplishments, and each to be selected for competency in one or more of the following categories: (a) Biomedical and behavioral sciences; (b) pediatrics, family medicine, internal medicine, or obstetrics and gynecology; (c) reproductive or developmental biology; (d) epidemiology; (e) psychiatry, clinical psychology, behavioral or social science; and (f) clinical research for improving the treatment of major diseases or disorders.

Members shall serve for overlapping four-year terms; terms of more than two years are contingent upon the renewal of the Board by appropriate action prior to its termination. The term of office for the chairperson shall be two years.

Any member appointed to fill a vacancy occurring prior to expiration of the term for which his or her predecessor was appointed shall serve for the remainder of such term. Members may serve after the expiration of their terms until their successors have taken office.

The Department Committee Management Officer shall be notified upon establishment of each subcommittee, and shall be provided information on the name, membership, function, and estimated frequency of meetings.

Management and support services shall be provided by the National Institutes of Health.

#### Meetings

Meetings of the Board may be held approximately ten times a year at the call of the Chairperson with the advanced approval of a government official who shall also approve the agenda. Meetings of the

subcommittee(s) shall be convened as necessary. A government official shall be present at all meetings.

Meetings shall be open to the public except as determined otherwise by the Secretary; notice of all meetings shall be given to the public.

Meetings shall be conducted, and records of proceedings kept, a required by applicable laws and Departmental regulations.

#### Reports

Reports on specific issues shall be submitted to the Secretary and the Assistant Secretary for Health as requested. In addition, an annual report shall be submitted to the Secretary and the Assistant Secretary for Health, no later than December 30 of each year, which shall contain, as a minimum, the Board's function, a list of members and their business addresses, the dates and places of meetings, and a summary of the Board's activities and recommendations made during the year. A copy of the report shall be provided to the Department Committee Management Officer.

[FR Doc. 88-20634 Filed 9-9-88; 8:45 am]

BILLING CODE 4110-60-M

#### Centers for Disease Control

##### Availability of Fiscal Year 1987 Annual Report; Mine Health Research Advisory Committee

**ACTION:** Notice of Availability.

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463 (5 USC Appendix 2), the Fiscal Year 1987 annual report for the following Federal advisory committee utilized by the Centers for Disease Control has been filed with the Library of Congress:

##### Mine Health Research Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE, Washington, DC (telephone 202/267-6310).

Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue SW, Washington, DC (telephone 202/245-6791).

Dated: September 6, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination,  
Centers for Disease Control.

[FR Doc. 88-20609 Filed 9-9-88; 8:45 am]

BILLING CODE 4160-18-M

#### Food and Drug Administration

[Docket No. 77P-0403 ET AL.]

##### Approved Variances for Laser Light Shows; Availability

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 14 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

**DATES:** The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

**ADDRESS:** The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Sally Friedman, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

**SUPPLEMENTARY INFORMATION:** Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 14 organizations listed in the table below a variance from the requirements of 21 CFR 1040.11(c) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of class II

levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical designs and by warnings in the user manuals and on the

products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each

product shall bear on the certification label required by 21 CFR 1010.2(a) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date—termination date
77P-0403 (renewal).....	Laser Productions, 700 N.E. 4th Court, Miami, FL 33136.	Laser Productions projectors, Models 2001 and Orion, and laser light shows incorporating those projectors assembled and produced by Laser Productions.	April 26, 1988-May 7, 1990.
79P-0192 (renewal).....	Jacksonville Museum of Arts and Sciences, Alexander Brest Planetarium, 1025 Gulf Life Drive, Jacksonville, FL 32207.	Jacksonville Museum of Arts and Sciences Alexander Brest Planetarium laser light show incorporating the firm's Class IV argon/krypton and helium-neon laser projection system.	June 21, 1988-June 26, 1990.
80P-0114 (renewal).....	Laser Fair, Inc. P.O. Box 903, Sterling, CO 80751.	Laser Fair, Inc. laser light show incorporating a Laser Presentations Class IIIb laser projector, Model LP-4 or LP-4K(1).	June 21, 1988-June 4, 1990.
82P-0012 (amendment).....	Legends in Concert, 3535 Las Vegas Boulevard South, Las Vegas, NV 89109.	Legends in Concert laser light show incorporating an Inter-Science Technology Model 430 argon and krypton laser projector.	July 1, 1988-February 2, 1990.
82P-0191 (renewal).....	Redmond Productions, P.O. Box 14607, San Francisco, CA 94114.	Redmond Productions laser light shows incorporating the Spectra Physics Argon-ion Model 171-09 laser light show system.	May 31, 1988-June 18, 1990.
84V-0234 (renewal).....	Hotel Riviera, Inc. 2901 Las Vegas Boulevard South, Las Vegas, NV 89109.	Laser light shows assembled and produced by Hotel Riviera, Incorporated which incorporates a Laser Media Model LMS laser projection system with Class IV argon and krypton ion lasers.	June 9, 1988-September 19, 1990.
85V-0364 (reinstatement).....	Recreational Improvement Corp., dba Photon Amusements, 1215 Wyckoff Road, Farmingdale, NJ 07727.	Photon Amusements laser light show assembled and produced by Recreational Improvement Corporation incorporating the Laser Media, Inc. Model LMS and Fiberay laser projector devices with a Class IV argon ion laser.	July 1, 1988-December 2, 1989.
85V-0463 (renewal).....	Blackstone Audio-Visual, 2209 West Braker Lane, Austin, TX 78758.	Laser light shows produced and assembled by Blackstone Audio-Visual incorporating Class IIIb or IV helium-neon, argon, krypton, or mixed gas lasers and Laser Systems (England) Maestro S8000B laser projector.	May 3, 1988-April 30, 1990.
86V-0165 (renewal).....	The Federated Group Inc., 5655 East Union Pacific Ave., City of Commerce, CA 90022.	Federated Group, Incorporated laser light shows assembled and produced by the firm with their Class IV Federated Laser Display Mark I model series argon laser projector.	May 3, 1988-May 15, 1990.
87V-0244.....	Tropicana Resort and Casino, 3801 Las Vegas Boulevard, South Las Vegas, NV 89109.	Tropicana Resort and Casino laser light shows incorporating the Lasermedia LM laser projector.	June 20, 1988-June 20, 1990.
87V-03907.....	Aura Technologies, Inc., 2201 West Campbell Park Drive, Number 25, Chicago, IL 60612.	Laser light shows assembled and produced by Aura Technologies, Inc. using the Class IIIb Laser Fantasy Rainbow 2000 laser projection system.	May 11, 1988-May 11, 1990.
88V-0016.....	Lasermation, P.O. Box 31898, Phoenix, AZ 85046.	Lasermation laser light shows, such as Boogie Factory, using the Laser Systems Development Corporation Models R-2 Argon and C-4 Argon/HeNe and the Summa Star HeNe laser projection systems.	May 9, 1988-May 9, 1990.
88V-0214.....	RNB Corp., 279 South Beverly Drive, #159 Beverly Hills, CA 90212.	RNB Corporation "Zone" laser light show incorporating an ETI Beam Master, Model 3 argon laser projector.	June 24, 1988-June 24, 1990.
88V-0228.....	Big Kahuna's Lost Paradise, Inc., 1007 Highway 98 East, Destin, Florida 32541.	Big Kahuna's Lost Paradise, Inc. laser light shows incorporating the Laser Systems Development Corp. Model C-4 and R-2(F) laser projectors.	June 20, 1988-June 20, 1990.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179

(42 U.S.C. 263f) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: September 1, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-20588 Filed 9-9-88; 8:45 am]

BILLING CODE 4160-01-M

#### Health Care Financing Administration

[HSQ 162-N]

**Medicare Program; Utilization and Quality Control Peer Review Program; Third Scope of Work for Peer Review Organizations**

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

**ACTION:** Notice.

**SUMMARY:** This notice describes new requirements for the third Scope of Work for Utilization and Quality Control Peer Review Organizations

(PROs) for fiscal year 1989, beginning October 1, 1988. This notice implements section 4091(b)(1) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), which requires us to publish a new policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations at least 30 days before the date the policy or procedure is to be used. It also implements other provisions of Pub. L. 100-203, as well as requirements of the Omnibus Budget Reconciliation Act of 1986.

**FOR FURTHER INFORMATION CONTACT:**  
Patricia Booth, (301) 966-6860.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248) (Act) established the Utilization and Quality Control Peer Review Organization (PRO) program. The Act requires the Secretary to enter into contracts with private Peer Review Organizations (PROs) for the review of services furnished under Medicare. In the past, these contracts have been subject to renewal on a biennial basis.

The specific review obligations of the PRO are outlined in a document known as the Scope of Work, which defines the duties and functions of Medicare review performed by the PRO. Such duties and functions include the implementation and operation of a review system to assure the quality of services for which payment may be made, in whole or in part, under Title XVIII of the Social Security Act, and to eliminate unreasonable, unnecessary, and inappropriate care provided to Medicare beneficiaries. The first Scope of Work covered the 1984-1986 contract period.

On November 12, 1985, we published a notice in the **Federal Register** which announced the availability of the proposed second Scope of Work and solicited comments on its content. We subsequently considered the comments and incorporated them into the final second Scope of Work. The second Scope of Work was effective for the 1986-1988 contract period.

**II. Implementation of Recent Legislation**

Section 4091(a)(1) of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987 (OBRA 87), allows a one-time contract extension (of up to 24 months) for existing contracts in order to permit the Secretary to more effectively administer PRO contract renewals, while section 4091(a)(2) of OBRA 87 changes the PRO contract period from two to three years. Accordingly, we

have developed a schedule for extension of the current contracts and an implementation schedule for the third Scope of Work for the new three-year contract period. Hence, on October 1, 1988, approximately one-fourth of the PROs will begin the new 3-year contract period under which they must implement the third Scope of Work. The remaining PROs will implement the third Scope of Work on April 1, 1989 (some through new contracts and others because of extensions through modifications to their existing contracts).

Section 4091(b) of OBRA 87 requires that we publish, 30 days prior to the effective date, any new policy or procedure adopted by the Secretary which substantially affects the performance of contract obligations under PRO contracts. Therefore, we are publishing this notice to inform the public that the third Scope of Work contains some new requirements that substantially impact on PRO contract obligations.

**III. Third Scope of Work**

The third Scope of Work was developed following an extensive analysis of the review requirements of the second Scope of Work. In addition, the third Scope of Work incorporates the provisions of three public laws, passed since the development of the second Scope of Work, which impact on PRO review. These laws are: Pub. L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA); Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86); and OBRA 87. These provisions are discussed in section IV of this notice.

The third Scope of Work applies where hospitals receive payment under Medicare's Prospective Payment System (PPS) in 48 States (i.e., all States except New Jersey and Maryland), the District of Columbia, and Puerto Rico. The third Scope of Work for New Jersey has some differences which are discussed in section V of this notice. In addition, the third Scope of Work for Maryland, the Virgin Islands and Guam/American Samoa will also be different; a notice regarding their Scopes of Work will be published at a time closer to the effective dates of those new contracts.

An individual or organization interested in obtaining copies of the second and third Scopes of Work should address requests to: Health Care Financing Administration, Attention: Bob Lozosky, HCFA, Office of Management and Budget, Room 322, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

**IV. Program Changes and Legal/Administrative Requirements**

In an effort to achieve consistency and be least disruptive to on-going review activities, we attempted to change review activities in the third Scope of Work only where absolutely warranted. Thus, much of the content of the second Scope of Work remains a part of the third Scope of Work. Where changes were made, they were done in the interest of creating a more effective review system and making more efficient use of PRO resources. In some cases, the third Scope of Work contains certain types of review required by legislation. To the extent that we have flexibility, we are amending the review requirements in the interest of increasing PRO effectiveness and efficiency. Some existing requirements which have proven inefficient or ineffective are being deleted.

We have, in an effort to achieve consistency among PROs, developed a basic quality intervention plan (QIP). This plan is a prescribed blueprint which requires each PRO to implement specific interventions in response to confirmed quality problems. The QIP mandates a three-level severity indexing system to be used in categorizing quality problems. It also requires the PRO to follow a specific process, along with timeframes, for notifying the involved physician and/or provider. This process provides these parties with an opportunity to discuss the problem. The QIP dictates what profiling and weighting of quality problems must occur to determine the prescribed quality intervention.

We have modified the HCFA quality screens which PROs use. These screens were made more explicit in response to comments and data analysis, so that "false positives" were significantly reduced.

The following is a summary of the differences and similarities between the second and third Scope of Work. The review requirements are grouped according to whether they are: (1) Continuing requirements; (2) new requirements; (3) requirements which continue with some amendment; or (4) requirements which have been deleted.

**A. Continuing Requirements**

PROs must:

- On every case selected, review for quality of care (e.g., using HCFA generic screens), medical necessity, and appropriateness of setting perform Diagnosis Related Group (DRG) validations and coverage reviews; and

make limitation of liability (i.e., waiver of liability) determinations.

- Review the following hospital cases without a change in level of effort from the second Scope of Work:
  - + 3 percent random sample;
  - + Transfers from PPS beds to PPS exempt psychiatric units;
  - + Medicare code editor rejects;
  - + Hospital adjustments to a higher weighted DRG;
  - + Noncovered admissions which are followed by a period in which the level of care is covered;
  - + Fiscal Intermediary and HCFA regional office referrals; and
  - + A sample of specialty hospital cases.
- Calculate errors and intensify utilization review using the current methodology.
- Review freestanding cardiac catheterization facilities when requested.
- Upon request, reconsider initial denial determinations and rereview DRG changes. When an appeal (i.e., hearing) is requested, the PRO prepares the appeals folder.
- When appropriate, initiate sanction recommendations against practitioners and providers.
- Maintain at least one consumer member on the PRO's governing board.
- Investigate beneficiary complaints about poor quality care.
- Review, upon request, hospital emergency room records to determine if the hospital has complied with the requirement to serve all individuals in need of emergency care (Anti-Dumping).
- Offer the attending physician and provider at least 20 days to discuss a proposed denial or change in DRG.

In addition, in accordance with the Health Maintenance Organization/Competitive Medical Plan (HMO/CMP) Scope of Work, the review of inpatient and ambulatory care provided to a sample of all Medicare beneficiaries who have enrolled in a risk-based HMO/CMP will continue. Cases which are reviewed are:

- 3 percent random sample of hospital discharges;
- Sample of hospital readmissions within 31 days;
- Sample of non-trauma deaths;
- All transfers from a hospital with which the HMO does not have an agreement to one with which the HMO has an agreement;
- A sample of hospital discharges for 13 identified conditions (including, based upon the identified condition, post and/or prehospital care); and
- A random sample of enrollees receiving ambulatory care.

#### *B. New Requirements*

PROs must:

- Conduct a significant amount of review onsite in at least 20 percent of the rural hospitals as required by section 4094(b) of OBRA 87.
- Determine in cases selected for review if an invasive procedure was reasonable and medically necessary. (Originated because of concern that unnecessary procedures might be performed.)
- Develop a quality intervention plan which meets HCFA requirements. (Originated with intention that quality problems be handled consistently across the 54 PRO areas.)
- Conduct a review of ambulatory surgery procedures as required by section 9343(d) of OBRA 86.
- Use (to the extent possible) a physician reviewer who is trained in psychiatry or physical rehabilitation, as required by section 4094(c)(2) of OBRA 87, when a psychiatric or physical rehabilitation case is reviewed.
- Conduct intensified reviews of those physicians, providers, or DRGs found to exhibit a pattern of substandard care. As part of the QIP, implement specific interventions to rectify identified patterns of substandard care.
- Publish (not less than annually) a report that describes the PRO's findings with respect to the types of cases in which the PRO has frequently determined that care or services were unnecessary, inappropriate, rendered in an inappropriate setting, or did not meet professionally recognized standards. The findings are to be distributed to providers and practitioners whose services are subject to review. This requirement is mandated by section 4094(c)(1) of OBRA 87.
- Review post-hospital intervening care (e.g., home health agency, skilled nursing facility), for which Medicare payment could be made, that is delivered between 2 hospital readmissions where the second admission is within 31 days of the discharge from the first admission, as required by section 9352 of OBRA 86.

In addition, if a PRO negotiates a contract to perform review for the Office of Civilian Health and Medical Programs of the Uniformed Services (CHAMPUS), the PRO may review inpatient care provided to CHAMPUS beneficiaries. The review is basically the same as Medicare's PPS review and it is estimated that it will consist of approximately 17 percent of CHAMPUS inpatient cases.

#### *C. Requirements which Continue with Some Amendment*

• PROs must continue to propose objectives to HCFA in order to resolve identified utilization and quality problems (i.e., a dynamic process). Objectives are based on profiles of inpatient hospital care provided or confirmed quality problems identified through application of generic quality screens. Objectives may be statewide or focused by physician, provider, DRG, etc.

• PROs are to sample the following review categories with new levels of effort:

+ Transfers from PPS reimbursement to Exempt swing bed reimbursement—Reduced from 50 percent to 25 percent.

+ Transfers from PPS hospitals to PPS hospitals—Reduced from 100 percent to 50 percent.

+ Readmissions—Reduced from 100 percent of all related PPS readmissions within 15 days of PPS discharge to 25 percent of all readmissions occurring within 31 days from discharge from a PPS hospital.

+ Day and cost outliers—Reduced from 50 percent to 25 percent and deleted review of fragmented charges.

• Focused DRG review—DRGs 462 (Rehabilitation) and 468 (Other Operating Room Procedures) are continued, but at a lower rate (Reduced from 100 percent to 25 percent and 50 percent, respectively). Review of DRG 088 (Chronic Pulmonary Obstruction) has been deleted. New DRGs to be reviewed at 100 percent include: DRG 472 (Extensive Burns), DRG 474 (Tracheostomy), DRG 475 (Mechanical Ventilation through Endotracheal Intubation), and seven low volume DRGs related to newborns. (HCFA initiated this amendment in the interest of efficient and effective review.)

• Preadmission/Preprocedure review—Increased from 5 to 10 procedures, and can extend to outpatient procedures as well. The mandatory review of pacemaker implants has been changed to a mandatory review of cataract and carotid endarterectomy surgery. Therefore, the PRO will choose 8 additional procedures from the following 11 (listed below) or produce evidence why a procedure not on the list should be subject to 100 percent preadmission review: cholecystectomy, major joint replacement, coronary artery bypass with graft, percutaneous transluminal coronary angioplasty, laminectomy, complex peripheral revascularization, hysterectomy, bunionectomy, inguinal hernia repair,

prostatectomy and pacemaker insertion. (HCFA originated this amendment in the interest of efficient and effective review.)

- Community outreach plans for beneficiaries, providers and physicians must meet certain requirements. The plan must provide for:

- + A toll-free hotline which beneficiaries may use to call the PRO.
- + Programs to inform beneficiaries about PRO review.

- + Specific types of informational materials to be developed by the PRO.

- + Improved educational programs for physicians, health care practitioners, and providers (including offering to meet with medical and administrative staff at the hospital or at a regional meeting several times a year).

- + Review by a PRO physician who practices in a setting similar to that in which the physician whose services are under review practices.

- + Use, wherever practicable, of board certified or board eligible physicians in the appropriate specialty to make reconsideration determinations. (Originated with HCFA desire for national consistency and improved relationships with parties affected by PRO review.)

- Review of all requests for use of an assistant at cataract surgery with or without lens insertion, as required by section 9307 of COBRA. Additionally, the PRO will review requests for use of an assistant when an intraocular lens will be implanted after the cataract surgery has been performed. This is required by section 411 of Pub. L. 101-360, the Medicare Catastrophic Coverage Act of 1988, which amended section 1862(a)(15) of the Act.

#### D. Requirements Which Have Been Deleted

The requirement for special sampling of these categories has been deleted.

- Review of cases transferred from a PPS bed to a PPS-exempted alcohol/drug abuse unit in the same hospital.
- Review of cases transferred from a PPS bed to a PPS-exempt rehabilitation unit in the same hospital.
- Review of claims for percutaneous lithotripsy.

#### V. Scope of Work Requirements Specific to New Jersey

The New Jersey Scope of Work is similar in content to the scope presented above, but deviates in some areas because New Jersey has received a waiver from Medicare's PPS. All acute care hospitals in New Jersey are under the State's cost control system, a DRG-based system. The New Jersey system

and Medicare's PPS are similar and provide essentially the same incentives to hospitals. The purpose of New Jersey's cost control system is to change hospital behavior through financial incentives which encourage efficient medical care management by doctors and hospitals.

The New Jersey Scope of Work differs from the scope applicable to most other States in the following areas:

#### A. Outlier Review

In New Jersey, outliers are defined as cases outside the norm for length of stay (above or below) and cases requiring unusual amounts of resources. Outlier cases include cases with high or low lengths of stay, clinical outliers, low volume DRGs, same day stays, and transfers from one acute care hospital to another. PRO review of these cases starts with 100 percent review, decreases to 50 percent, and then to 25 percent if the review results indicate a decrease is appropriate. This methodology is the same as that which is currently being used in New Jersey.

#### B. Intensified Review

The triggers for intensified review are the same in New Jersey as in the other States except for the outlier categories. While intensified review is usually triggered by excessive errors, in New Jersey outlier review begins at the intensified level and then is reduced when data reflects that a provider is making accurate decisions. Additionally, we established specific levels at which this "reverse trigger" allows the PRO to reduce the level of review in a specific outlier category.

#### C. Required Modification

If the current payment methodology in New Jersey is modified or changed, the PRO will be required to propose review activities appropriate to the reimbursement system resulting from that modification or elimination no later than 45 days following the modification or elimination.

#### VI. Paperwork Reduction Act

Provisions of this notice would be implemented by information collection requirements contained in revised PRO quarterly and monthly reporting forms. These revised forms have been sent to the Office of Management and Budget (OMB) for review pursuant to the Paperwork Reduction Act of 1980. The revised PRO reporting requirements will be effective upon OMB approval and notice of OMB's action will be published in the *Federal Register*.

(Catalog of Federal Domestic Assistance Program: No. 13.773, Medicare-Hospital

Insurance Program: No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: August 29, 1988.

William L. Roper,

*Administrator, Health Care Financing Administration.*

[FIR Doc. 88-20803 Filed 9-8-88; 4:50 pm]

BILLING CODE 4120-01-M

#### National Institutes of Health

##### National Cancer Institute; Board of Scientific Counselors, Division of Cancer Biology and Diagnosis

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute, November 21, 1988, Building 31C, Conference Room 9, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public on November 21 from 9 a.m. to adjournment for concept review of proposed NCI research projects. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496-3251) will provide substantive program information.

Dated: September 6, 1988.

Betty J. Beveridge,

*Committee Management Officer, NIH.*

[FIR Doc. 88-20632 Filed 9-9-88; 8:45 am]

BILLING CODE 4140-01-M

##### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting, National Diabetes Advisory Board

Pursuant to Pub. L. 92-463, notice is hereby given of the National Diabetes Advisory Board's meeting date which will be September 30, 1988. The meeting will begin at 9:00 a.m. and end at approximately 4:30 p.m. The Board will meet at the Lincoln Hotel and University Conference Center, 911 West North Street, Indianapolis, Indiana 46206. The primary purpose of the meeting is to discuss the Board's activities and to

continue evaluation of the implementation of the long-range plan to combat diabetes mellitus. Although the entire meeting will be open to the public, attendance will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

For any further information, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 498-6045. His office will provide, for example, a membership roster of the Board and an agenda and summaries of the actual meetings.

Dated: September 6, 1988.

Betty J. Beveridge,  
NIH Committee Management Officer.

[FR Doc. 88-20833 Filed 9-9-88; 8:45 am]

BILLING CODE 4140-01-M

#### Consensus Development Conference On Urinary Incontinence in Adults; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the NIH Consensus Development Conference on "Urinary Incontinence in Adults," sponsored by the National Institute on Aging, the NIH Office of Medical Applications of Research, the National Center for Nursing Research, the National Institute of Diabetes and Digestive and Kidney Diseases, the National Institute of Neurological and Communicative Disorders and Stroke, and the Veterans Administration. The conference will be held October 3-5, 1988, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Urinary incontinence is a major clinical problem, especially among older persons. Incontinence affects an estimated 35 percent of women over age 60 and 15 percent of men over that age. Some 38 million Americans are over 60 years of age.

Considerable controversy exists about the proper diagnostic techniques and therapies for urinary incontinence. In recent years, the body of research on this topic has grown.

This conference will review these data in an effort to reach consensus on the most appropriate ways to address urinary incontinence, a problem that affects nearly 2 million persons now in nursing homes in this country.

This conference will bring together geriatricians, urologists, gynecologists, nurses, mental health care providers, other health professionals, and the

public. Following a day and a half of presentations by medical experts and discussion by the audience, a consensus panel will weigh the scientific evidence and write a draft statement in response to the following key questions:

- What is the prevalence and clinical, psychological, and social impact of urinary incontinence among persons living at home and in institutions?
- What are the pathophysiological and functional factors leading to urinary incontinence?
- What diagnostic information should be obtained in assessment of the incontinent patient? What criteria should be employed to determine which tests are indicated for a particular patient?
- What are the efficacies and limitations of behavioral, pharmacological, surgical, and other treatments for urinary incontinence? What sequences and/or combination of these interventions are appropriate? What management techniques are appropriate when treatment is not effective or indicated?
- What strategies are effective in improving public and professional knowledge about urinary incontinence?
- What are the needs for future research related to urinary incontinence?

On the final day of the meeting, the Consensus Panel Chairman will read the draft statement to the conference audience and invite comments and questions.

Information on the program may be obtained from: Barbara McChesney, Prospect Associates, Suite 500, 1801 Rockville Pike, Bethesda, Maryland 20852; telephone (301) 468-6555.

Dated: August 31, 1988.

William F. Raub,  
Acting Director, NIH.

[FR Doc. 88-20589 Filed 9-9-88; 8:45 am]

BILLING CODE 4140-01-M

#### Advisory Committee to the Director; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Human Fetal Tissue Transplantation Research Panel, scheduled for September 14-16, 1988, that was published in the *Federal Register* on June 29, 1988, (53 FR 24500).

This panel was to have met in executive session on September 16, 1988. In order to permit the maximum public understanding of the panel deliberations, the session will open for public observation on September 16.

Dated: September 7, 1988.

William F. Raub,  
Deputy Director.

[FR Doc. 88-20858 Filed 9-9-88; 8:45 am]  
BILLING CODE 4140-01-M

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

[NM-030-08-4410-08]

#### Availability and Public Hearings of Proposed White Sands Draft Resource Management Plan Amendment/ Environmental Impact Statement (RMPA/EIS)

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability and Public Hearings.

**SUMMARY:** The Bureau of Land Management (BLM), Las Cruces District, New Mexico, has prepared a Draft Resource Management Plan Amendment/Environmental Impact Statement (RMPA/EIS) for McGregor Range in Otero County in south-central New Mexico. The need for the RMP Amendment resulted from the passage of the Military Lands Withdrawal Act in 1986, which withdrew the land for military purposes. The plan amendment will guide BLM programs and management practices on McGregor Range. The Draft RMPA/EIS is available for public review and comment. Public hearings will be held in El Paso, Texas, and Alamogordo, New Mexico.

**DATE:** Written comments on the Draft RMPA/EIS will be accepted until December 19, 1988.

**ADDRESS:** Comments should be sent to P. Robert Alexander, Area Manager, White Sands Resource Area, 1800 Marquess Street, Las Cruces, New Mexico 88005.

**FOR FURTHER INFORMATION CONTACT:** P. Robert Alexander, Area Manager, or Willis Bird, Team Leader, White Sands Resource Area, (505) 525-8228.

**SUPPLEMENTARY INFORMATION:** The planning area is the 608,385 acres of withdrawn public land within McGregor Range in Otero County, New Mexico. A map showing the area is available in the White Sands Resource Area Office. The single planning issue addressed in the Draft RMPA/EIS is to what degree public use of the resources will be allowed and the intensity of BLM resource management on McGregor Range. Public use of McGregor Range is limited by conditions and restrictions necessary for military use of the land or

the purposes stated in the Military Lands Withdrawal Act of 1986 (Pub. L. 99-606). For resources and their uses under BLM's administration and control, the Draft RMPA/EIS describes and analyzes 3 alternatives to consider the degree of public use of the resources. The Draft RMPA/EIS proposes to designate 4 existing vegetation study sites (3,910 acres) as the McGregor Black Grama Grassland Area of Critical Concern (ACEC). The ACEC would be managed according to an existing Cooperative Agreement between the BLM, the Army, and New Mexico State University. The study sites meet BLM's ACEC relevance and importance criteria because the sites contain rare pristine black grama grasslands and there is a need to highlight public and management interest in the unique resource. The Draft RMPA/EIS also proposes to designate McGregor Range as "limited to designated roads and trails" for authorized off-road vehicle (ORV) use, except for 40 acres which is proposed for closure to all ORV use for protection of cultural resources. Copies of the Draft RMPA/EIS have been distributed to a mailing list of identified interested parties. A limited number of additional copies are available at the White Sands Resource Area Office, 1800 Marquess Street, Las Cruces, New Mexico 88005, and at the Real Property Management Branch, Directorate of Engineering and Housing, Bldg. 1160, Fort Bliss, Texas 79916. Public reading copies are available for review at the BLM State Office, U.S. Federal Building, Santa Fe, New Mexico, and at public and university libraries in Las Cruces and Alamogordo, New Mexico, and El Paso, Texas.

**Public Hearings:** Two public hearings will be held to obtain public comments on the Draft RMPA/EIS for McGregor Range. The public hearing will be held at the following times and locations:

Date and time	Meeting locations
November 29, 1988, 7:30 p.m.	City Hall Basement, Conference Rm., No. 2 Civic Center Plaza, El Paso, TX.
December 1, 1988, 7:30 p.m.	Chamber of Commerce, 1301 White Sands Blvd., Alamogordo, NM.

During the public hearings, oral comments will be limited to 10 minutes and should be accompanied with a written text.

Larry L. Woodard,  
State Director.

Dated: September 2, 1988.  
[FR Doc. 88-20587 Filed 9-9-88; 8:45 am]  
BILLING CODE 4310-FB-M

[CO-030-08-4322-10]

### Montrose District Grazing Advisory Board Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given in accordance with 43 CFR Subpart 1784, that a meeting of the Montrose District Grazing Advisory Board will be held October 12 and 13, 1988, in Norwood, Colorado.

**DATES:** Meetings are scheduled October 12 and 13, 1988.

#### FOR FURTHER INFORMATION CONTACT:

Debbie Pietrzak, Bureau of Land Management, 2465 South Townsend, Montrose, CO 81401; telephone (303) 249-7791.

**SUPPLEMENTARY INFORMATION:** The Board will convene at 10:00 a.m. on October 12, 1988, in the conference room of the San Miguel Basin State Bank in Norwood, Colorado. Agenda items will include: Introductions, minutes of the previous meeting, public presentations and requests, new or revised allotment management plan proposals, status of current project work, new Board project proposals, updates on riparian issues, and arrangements for the next meeting. The meeting will adjourn at 4:30 p.m.

On October 13, 1988, the Board will reconvene in the parking area of the Ray Motel in Naturita, Colorado. The Board will depart at 8:30 a.m. for a tour of several plowed and seeded areas and other project areas in the West End. The Board will return to Naturita and adjourn at approximately 1:30 p.m.

Both the meeting and the tour are open to the public. Individuals wishing to attend the tour must provide their own transportation (four-wheel drive vehicles are recommended).

Anyone wishing to make an oral statement on October 12th must notify the District Manager at the above address by October 7, 1988. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: September 2, 1988.

Robert S. Schmidt,  
Associate District Manager.  
[FR Doc. 88-20613 Filed 9-9-88; 8:45 am]  
BILLING CODE 4310-JB-M

### Bureau of Mines

**Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act.**

A request extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-3470.

**Title:** Mine Information Supplement.  
**OMB Approval Number:** 1032-0081.

**Abstract:** Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Surveys (MIS), Minerals Yearbook Volumes I, II, and III, Mineral Facts and Problems, Mineral Commodity Summaries, Mineral Commodity Profiles, and Minerals and Materials/A Bimonthly Survey for use by private organizations and other Government agencies.

**Bureau Form Number:** 6-1017-A  
**Frequency:** Annual.

**Description of Respondents:** Nonefuel Minerals Producers and Exploration Operations.

**Estimated Completion Time:** ½ hours.  
**Annual Responses:** 2,250.

**Annual Burden Hours:** 1,125.

**Bureau Clearance Officer:** James T. Hereford (202) 634-1125.  
August 19, 1988.

T. S. Ary,  
Director, Bureau of Mines.  
[FR Doc. 88-20636 Filed 9-9-88; 8:45 am]  
BILLING CODE 4310-53-M

### National Park Service

#### Concession Contract Negotiations; Belton Chalets, Inc.

**AGENCY:** National Park Service, Interior.  
**ACTION:** Public notice.

**SUMMARY:** Public notice is hereby given that the National Park Service proposes to negotiate a concession permit with Belton Chalets, Inc., authorizing it to

continue to provide lodging, food services, and facilities for the public at Glacier National Park, Montana for a period of five (5) years from January 1, 1988, through December 31, 1992.

**EFFECTIVE DATE:** November 14, 1988.

**ADDRESS:** Interested parties should contact the Regional Director, Rocky Mountain Region, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Lakewood, Colorado 80225, for information as to the requirements of the proposed permit.

**SUPPLEMENTARY INFORMATION:** This permit has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1987, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

**Carl H. Skyrman,**  
*Acting Regional Director, Rocky Mountain Region.*

Date: June 6, 1988.

[FR Doc. 88-20642 Filed 9-9-88; 8:45 am]  
BILLING CODE 4310-70-M

#### Concession Contract Negotiations; Glacier Park Outfitter's Inc.

**AGENCY:** National Park Service, Interior.  
**ACTION:** Public notice.

**SUMMARY:** Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Glacier Park Outfitter's, Inc., authorizing it to continue to provide guided horse trips for the public at Glacier National Park, Montana for a period of five (5) years from January 1, 1988, through December 31, 1992.

**EFFECTIVE DATE:** November 14, 1988.

**ADDRESS:** Interested parties should contact the Regional Director, Rocky Mountain Region, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Lakewood, Colorado 80225, for

information as to the requirements of the proposed contract.

**SUPPLEMENTARY INFORMATION:** This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1987, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

**Carl H. Skyrman,**  
*Acting Regional Director, Rocky Mountain Region.*

Date: June 6, 1988.

[FR Doc. 88-20643 Filed 9-9-88; 8:45 am]  
BILLING CODE 4310-70-M

#### Concession Contract Negotiations; Tonia Harvey

**AGENCY:** National Park Service, Interior.  
**ACTION:** Public notice.

**SUMMARY:** Public notice is hereby given that the National Park Service proposes to negotiate a concession permit with Ms. Tonia Harvey authorizing her to continue to provide food, beverage and gift shop facilities and services for the public at Great Basin National Park, Nevada for a period of five (5) years from January 1, 1989 through December 31, 1993.

**EFFECTIVE DATE:** November 14, 1988.

**ADDRESS:** Interested parties should contact the Regional Director, Western Region, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed permit.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an

existing permit which expires by limitation of time on December 31, 1988, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

**Stanley T. Albright,**  
*Regional Director, Western Region.*

Date: July 6, 1988.

[FR Doc. 88-20644 Filed 9-9-88; 8:45 am]  
BILLING CODE 4310-70-M

#### INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31299 (Sub-No. 1)]

**Ann Arbor Acquisition Corporation; Continuance in Control Exemption; Temperance Yard Corp.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Commission exempts the Ann Arbor Acquisition Corporation from the prior approval requirements of 49 U.S.C. 11343 to continue in control of the Temperance Yard Corporation, subject to standard employee protective conditions.

**DATES:** This exemption will be effective on September 15, 1988. Petitions for reconsideration must be filed by October 3, 1988.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 31299 (Sub-No. 1) to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Mark H.B. Williamson, 233 North Michigan Avenue, Suite 2400, Chicago, IL 60601

**FOR FURTHER INFORMATION CONTACT:**  
Joseph H. Dettmar (202) 275-7245.

(TDD for hearing impaired: (202) 275-1721)

**SUPPLEMENTARY INFORMATION:**  
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (D.C. metropolitan

area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided:

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lambole, and Phillips. Chairman Gradison did not participate in the disposition of this proceeding.

Noreta R. McGee,

Secretary.

[FR Doc. 88-20610 Filed 9-9-88; 8:45 am]

BILLING CODE 7035-01-M

## MONITORED RETRIEVEABLE STORAGE COMMISSION

### Meeting

Pursuant to its authority under Subtitle A of Pub. L. 100-203, the Nuclear Waste Policy Amendments Act of 1987, notice is hereby given that a meeting of the Monitored Retrievable Storage Review Commission will be held on Thursday, September 22, 1988 from 3:00 p.m.—5:00 p.m., and on Friday, September 23, 1988 from 9:00 a.m.—12:00 p.m. in suite 1030, 1850 M Street NW, Washington, DC 20036.

The purpose of the meeting is to obtain information on specific subjects from the Nuclear Regulatory Commission and the Department of Energy. On Thursday, September 22, 1988, at 3:00 p.m., the Commission will be briefed by the Nuclear Regulatory Commission staff on cask certification and NRC licensing responsibilities for independent spent fuel storage facilities. On Friday, September 23, 1988, at 9:00 a.m., the Commission will be briefed by the Department of Energy staff on ongoing engineering studies, rod consolidation equipment development, and transportation cask development.

Members of the public are permitted to attend these meetings only as observers. Opportunities for public participation will be provided at a later date. The meetings will be transcribed and transcripts of the meetings will be placed in a Public Document Room to be established by the Commission in the near future.

To ensure that adequate facilities are provided for public attendance, persons planning to attend should contact Ms. Nancy Creason by Monday, September 19, 1988 at the Monitored Retrievable Storage Review Commission, 1850 M Street NW., Washington, DC 20036, 202/653-5361.

Further information on this meeting can be obtained from Ms. Paula N. Alford, Director, External Affairs,

Monitored Retrievable Storage Review Commission, 1850 M Street NW., Suite 1030, Washington, DC 20036, 202/653-5361.

Jane A. Axelrad,

*Executive Director and General Counsel.*

September 7, 1988.

[FR Doc. 88-20629 Filed 9-9-88; 8:45 am]

BILLING CODE 6820-BE-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Institute of Museum Services; General Operating Support Program

**AGENCY:** Institute of Museum Services.

**ACTION:** Grant Application Availability Notice for Fiscal Year 1989.

This grant application announcement applies only to the General Operating Support program awards under 45 CFR Part 1180 for Fiscal Year 1989.

**Nature of Program:** IMS makes awards under the GOS program to museums to maintain, increase, or improve museum services. The purpose of these awards is to ease the financial burden borne by museums as a result of their increased use by the public and to help them carry out their educational role, as well as other functions. Section 206 of the Museum Services Act, Title II of Pub. L. 94-462, as amended, contains authority for this program. (20 U.S.C. 965)

**Deadline Date for Transmittal of Applications:** An application for a new grant must be mailed or hand-delivered by Friday, November 4, 1988.

**Applications Delivered by Mail:** An application sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue NW., Room 609, Washington, DC 20506.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMS.

If any application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

**Applications Delivered by Hand:** An application that is hand-delivered must be taken to the Institute of Museum

Services, Old Post Office Building, 1100 Pennsylvania Avenue NW., Room 609, Washington, DC 20506.

IMS will accept a hand-delivered application between 9:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

**Program Information:** Program information is contained in the following: final regulations published June 17, 1983 in *Federal Register* Vol. 48, no. 118, pages 27727-27734; amendments published on April 10, 1984 *Federal Register* Vol. 49, no. 70, pages 14108-14111 and on June 15, 1984 *Federal Register* Vol. 49, no. 117, pages 24731-24733; notice of proposed rulemaking published on October 5, 1984 *Federal Register* Vol. 49, No. 195, pages 39346-39349; final guidelines and standards published July 5, 1985 in *Federal Register* Vol. 50, no. 129, pages 27584-27589; the Application forms and accompanying instructions in the Application Packet. See paragraph on Application form.

**Available Funds:** \$17,300,000 is available for FY 1989. The maximum grant was \$75,000 in FY 88 and is determined each year by the National Museum Services Board. Most museums which are funded will receive a smaller amount. (45 CFR 1180.9) IMS normally does not make grants for more than 10 percent of a museum's most recently completed fiscal year's non-federal operating income (See 45 CFR 1180.16(b)).

**Application Forms:** IMS mails application forms and program information in a GOS Application Packet to museums and other institutions on its mailing list. Applicants may obtain Application Packets by writing or telephoning the Institute of Museum Services, 1100 Pennsylvania Avenue NW., Room 609, Washington, DC 20506, (202/786-0539).

**Applicable Regulations:** Final regulations for the General Operating Support grant program were published in the *Federal Register* on June 17, 1983 FR Vol. 48, No. 118, pages 27727-27734. Amendments to these regulations were published on April 10, 1984, 49 FR 14110, on July 5, 1985, 50 FR 27585-27588, and on December 2, 1986, FR Vol. 51, No. 231, pp. 43351-43354.

The regulations as amended implement the Museum Services Act. The amendments make technical and other changes in the eligibility conditions and other terms for the administration of the Conservation

Project Support Program and remove unneeded provisions. As amended the regulations published on June 17, 1983 will apply to the award of grants for Fiscal Year 1989.

**Further Information:** For further information contact Theresa Michel, Public Information Officer, Institute of Museum Services, 1100 Pennsylvania Avenue NW, Washington, DC 20506. Telephone: (202) 786-0536.

Dated: September 7, 1988.

(Catalogue of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Lois Burke Shepard,

Director, Institute of Museum Services.

[FR Doc. 88-20638; Filed 9-9-88; 8:45 am]

BILLING CODE 7036-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8502]

### Malapai Resources Co.; Final Finding of No Significant Impact Regarding a Major License Amendment to Malapai Resources Co. Irigaray Operation Located in Johnson County, WY

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of Final Finding of No Significant Impact

#### 1. Proposed Action

The proposed administrative action is to issue a major amendment to Source and Byproduct Material License SUA-1341. This amendment would allow in situ leach uranium recovery at the 14,000 acre Christensen Ranch Satellite Operation located in Johnson and Campbell Counties, Wyoming.

#### 2. Reasons for Finding of No Significant Impact

An environmental assessment was prepared by the staff at the U.S. Nuclear Regulatory Commission (NRC) and issued by the Commission's Uranium Recovery Field Office, Region IV. The environmental assessment performed by the Commission's staff evaluated potential impacts on-site and off-site due to radiological releases that may occur during the course of the operation. Documents used in preparing the assessment included operational data from the Willow Creek Research and Development in situ leach operation located at the Christensen Ranch site and the licensee's application dated January 5, 1988. Based on the review of the operational data and the application materials, the Commission has

determined that no significant impact will result from the proposed action, and therefore, an Environmental Impact Statement is not warranted.

The following statements support the final finding of no significant impact and summarize the conclusions resulting from the environmental assessment.

A. The ground-water monitoring program proposed by Malapai Resources Company is sufficient to monitor the operations and will provide a warning system that will minimize any impact on ground water. Furthermore, aquifer testing indicates that the production zone is adequately confined, thereby assuring hydrologic control of mining solutions.

B. Radiological effluents from the proposed operation of the well field and processing plant will be within regulatory limits and will be continuously monitored.

C. The environmental monitoring program is comprehensive and will detect any radiological releases resulting from the operation.

D. Radioactive wastes will be minimal and will be disposed of at an approved site in accordance with applicable Federal and State regulations.

E. Ground water, based upon previous testing, can be restored to baseline concentrations or applicable class of use standards.

F. During the 30-day comment period, April 12 to May 12, 1988, no comments were received on the draft notice.

In accordance with 10 CFR Part 51.33(a), the Director of the Uranium Recovery Field Office, made the determination to issue a final finding of no significant impact. This finding, together with the environmental assessment setting forth the basis for the findings, is available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado and at the Commission's Public Document Room at 1717 H Street NW, Washington, DC. Concurrent with this finding, the staff will amend Source and Byproduct Material License SUA-1341 authorizing operation of the Christensen Ranch Satellite Operation.

Dated at Denver, Colorado, this 25th day of August 1988.

For the Nuclear Regulatory Commission.

Edward F. Hawkins,

Chief, Licensing Branch 1, Uranium Recovery Field Office, Region IV.

[FR Doc. 88-20621 Filed 9-9-88; 8:45 am]

BILLING CODE 7590-01-M

#### [Docket No. 50-341]

### Detroit Edison Co., Wolverine Power Supply Cooperative, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-43, issued to the Detroit Edison Company and Wolverine Power Supply Cooperative, Inc. (the licensees), for operation of Fermi-2 located in Monroe County, Michigan.

In accordance with the licensees' application for amendment dated June 29, 1988 (NRC-88-0057), the amendment would revise the Fermi-2 Technical Specifications to provide provisions to reset instrument channels and/or trip systems, which are tripped to comply with Action Statements, in order to restore the operability of the associated instrumentation. In addition, Technical Specification changes have been proposed to remove the requirement to place channels and/or trip systems in the tripped condition when such action is not warranted.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 12, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how

that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message

addressed to Martin J. Virgilio: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this *Federal Register* notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for Detroit Edison Company.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 29, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland this 1st day of September 1988.

For the Nuclear Regulatory Commission  
Thomas V. Wambach,

*Acting Director, Project Directorate III-I,  
Division of Reactor Projects—III, IV, V &  
Special Projects.*

[FR Doc. 88-20622 Filed 9-9-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

**Commonwealth Edison Co.;  
Consideration of Issuance of  
Amendment to Facility Operating  
License and Opportunity for Hearing**

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR-39 and DPR-48 issued to the Commonwealth Edison Company (the licensee), for operation of Zion Nuclear Power Station, Units 1 and 2 located in Lake County Illinois. These amendments

consist of proposed changes to the Zion Technical Specification Sections 3.2, 3.4, 3.8, and 3.9 that would authorize Zion Station to remove the Boron Injection Tank (BIT) and the Boric Acid Tanks (BAT). These amendments will result in operational and safety benefits for the station. Presently, the negative effect of the high boric acid concentration in the BIT and BAT systems necessitates frequent BAT transfer pump seal repairs, heat trace repairs and entering into Technical Specification Limiting Conditions of Operation to accomplish these repairs. The detrimental consequences of high boric acid concentrations are also potential contributing factors to Emergency Core Cooling System inoperability. Improved analytical techniques used for Final Safety Analysis Report accident analysis show that the BIT concentrations could be reduced or the entire BIT could be removed from the Westinghouse plants.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 12, 1988, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petitions for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice of Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be

made a part to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call Western Union at 1-800-325-8000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date Petition was mailed; plant and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the

Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and Michael Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 9, 1988 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Waukegan Public Library, 128 N. County Street Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 2d day of September 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-20623 Filed 9-9-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-498]

**Houston Lighting & Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing**

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-76, issued to Houston Lighting & Power Company (the licensee), for the operation of the South Texas Project, Unit 1, located in Matagorda County, Texas.

The amendment would revise the provisions of the Technical Specifications relating to the radiation monitor logic in accordance with the licensee's application for amendment dated February 24, 1988. The result of the proposed changes would be that

failure of a radiation monitor would alarm in the control room but would not actuate an associated engineered safety feature (ESF) function. The effect of the change would be to reduce the number of spurious ESF actuations.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 12, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceedings; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions should be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036, attorneys for the licensee.

Nontimely filings of the petition for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its

technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated February 24, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at Wharton Junior College Library, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 5th day of September 1988.

For the Nuclear Regulatory Commission.

**Jose A. Calvo,**

*Director, Project Directorate-IV, Division of Reactor Projects-III, IV, V and Special Projects.*

[FR Doc. 88-20624 Filed 9-9-88; 8:45 am]

**BILLING CODE 7590-01-M**

**[Docket No. 50-498]**

**Houston Lighting & Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing**

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-76, issued to Houston Lighting & Power Company (the licensee), for operation of the South Texas Project, Unit 1 located in Matagorda County, Texas.

The amendment would revise the provision of the Technical Specifications relating to the toxic gas monitoring system. The proposed changes will improve the operational reliability of the toxic gas monitoring system as well as reduce the number of unnecessary engineered safety feature (ESF) control room heating, ventilation and air conditioning (HVAC) recirculation actuators.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 12, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petition for leave to intervene shall be

filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceedings, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the

hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW, Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date Petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street NW, Washington DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon the balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 8, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, DC, and at the Wharton Junior College Library, Wharton, Texas 77488.

Dated at Rockville, Maryland this 5th day of September 1988.

For the Nuclear Regulatory Commission.  
**Jose A. Calvo,**  
*Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 88-20625 Filed 9-9-88; 8:45 am]

BILLING CODE 7590-01-M

U.S. Office of Personnel Management.  
**Constance Horner,**  
*Director.*

[FR Doc. 88-20607 Filed 9-9-88; 8:45 am]  
BILLING CODE 6325-01-M

#### OFFICE OF PERSONNEL MANAGEMENT

##### Request for Approval of RI 79-14; Submitted to OMB for Clearance

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S. Code, chapter 35), this notice announces a new information collection from the public. RI 79-14, Certification of Eligibility To Receive the FEHBP Premium Rebate Under the Medicare Catastrophic Coverage Act, is to be completed by Federal retirees, survivors, and former spouses who wish to certify eligibility for the FEHBP premium rebate. Medicare eligible individuals are entitled to the premium rebate under the Medicare Catastrophic Coverage Act of 1988 which provides for expanded Medicare benefits duplicated under the Federal Employees Health Benefits Program. This form will be used to survey 1,300,000 individuals initially and 100,000 annually thereafter. The total initial burden is 225,000 hours with an annual burden of 25,000 hours. For copies of this proposal, call C. Ronald Trueworthy, Agency Clearance Officer, on (202) 632-7714.

**DATE:** Comments on this proposal should be received by September 19, 1988.

**ADDRESSES:** Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW, Room 6410, Washington, DC 20415

and

Joseph Lackey, Information Desk Officer, Office of Management and Budget, New Executive Office Building NW, Room 3235, Washington, DC 20503

##### FOR FURTHER INFORMATION CONTACT:

James L. Bryson, (202) 632-5472.

#### PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

##### Umatilla Flow Enhancement; Public Hearings

**AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council.

**ACTION:** Notice of hearings and deadline for comment (Umatilla Flow Enhancement).

**SUMMARY:** On July 14, 1988 pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, et seq.) the Pacific Northwest Electric Power and Conservation Planning Council (Council) voted to consider amending the Columbia River Basin Fish and Wildlife Program (program) pursuant to section 4(d)(1) of the Northwest Power Act, to adopt short-term measures augment flows in the Umatilla River in Oregon. This notice contains a schedule of public hearings and sets a deadline for submission of written comment for the amendment process. A previous notice (see 53 FR 28203) provided further information on the issues, explained how to obtain a full copy of possible amendments, and how to participate in the amendment process. To receive this earlier notice, contact Judy Allender at the address provided in the last paragraph of this notice.

**Hearings:** Public hearings will be held as follows:

September 22, 1988, 9:00 a.m. to 12 noon, the Compri Hotel, Doubletree Room, 475 Park Center Boulevard, Boise, Idaho

September 26, 1988, 1:30 p.m. to 4:30 p.m., the Towne Plaza Motor Inn, North 7th Street & East Yakima Avenue, Yakima, Washington 98901

September 28, 1988, 8:30 a.m. to 12 noon, the Forum Suite, the Hilton Hotel, Third Floor, 921 S.W. Sixth Avenue, Portland, Oregon

October 12-13, 1988, the Village Inn-Red Lion, Blackfoot Room, Missoula, Montana

To reserve a time period for presenting oral comments at a hearing, contact Janie Peracy at the Fish and Wildlife Division, Northwest Power Planning Council, 851 S.W. Sixth Avenue, Suite 1100, Portland, Oregon.

97204, or at (503) 222-5161, toll free 1-800-222-3355 in Idaho, Montana, and Washington or 1-800-452-2324 in Oregon. Requests to reserve a time period for oral comments must be received no later than two work days before the hearing.

**Public Comment:** All written comments must be received in the Council's central office, 851 S.W. Sixth Avenue, Suite 1100, Portland, Oregon, 97204, by 5 p.m. Pacific time on October 14, 1988. Comments should be submitted to Dulcy Mahar, Director of Public Involvement, at this address. Comments should be clearly marked "Umatilla Flow Enhancement Comments."

After the close of written comment, the Council may initiate consultations with interested parties to clarify points made in written comment. Consultations may be held up to the time of the Council's final action in this rulemaking.

**For a Full Copy of Possible Amendments, or Further Information:** Contact Judy Allender at the Northwest Power Planning Council, Public Involvement Division, 851 S.W. Sixth Avenue, Suite 1100, Portland, Oregon, 97204, or at (503) 222-5161, toll free 1-800-222-3355 in Idaho, Montana, and Washington or 1-800-452-2324 in Oregon.

Edward Sheets,  
Executive Director.

[FR Doc. 88-20585 Filed 9-9-88; 8:45 am]

BILLING CODE 0000-00-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26058; File No. PHLX 88-7, Amdt. No. 1]

### Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to First Set of Amendments to CIP Rule Change

Pursuant to section 19(b)(1) of the securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 23, 1988 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange 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 Philadelphia Stock Exchange ("PHLX" or "Exchange") hereby submits

its first set of amendments to its proposed rule change to trade Cash Index Participations ("CIPS"). In summary, PHLX is proposing to trade a CIP on the Standard & Poor's 500 Index ("S&P 500") and is withdrawing its proposal to trade a CIP on PHLX's Stock Market CIP Index. Additionally, PHLX is proposing some technical amendments to the proposed rules under which CIPs will be traded.

#### CIP on S&P 500

On July 20, 1988, PHLX entered into a licensing agreement with Standard & Poor's Corporation whereby PHLX will trade a CIP on the S&P 500. The S&P 500 is comprised of 500 selected stocks—394 industrials, 20 transportations, 40 utilities, and 46 financial institutions. These stocks are traded on various exchanges, as well as over-the-counter.

The formula used for computing the S&P 500 is a capitalization-weighted average. The daily market price is multiplied by the number of outstanding shares of each stock to obtain the total value of all 500 issues. The S&P 500 is also based on a reference point. The computed value of the 500 issues is divided by their market value during the period from 1941 to 1943, i.e., the base reference point.

#### A. S&P 500 CIP Specifications

**Index Value Ticker Symbol:** SPX  
**Frequency of Index Value**

**Calculation:** The S&P 500 is updated dynamically at least every minute during the trading day.

**Unit of Trading:** Each S&P 500 CIP will represent  $\frac{1}{10}$  of the Index multiplier, times the Index Value. The standard unit of trading in such CIPS will be 100 CIPs. Bids and offers will be expressed in decimals. The Exchange expects that S&P 500 CIPs will initially be priced at \$26.00 per CIP based on a 260 S&P 500 value.

**Specific Cash-Out Time:** The third Friday of March, June, September, and December. The deadline for exercising the cash-out privilege will be 4:15 p.m. on the business day immediately prior to the cash-out time. Upon due exercise of the cash-out privilege, the purchaser of a CIP may obtain on each cash-out time the CIP index value based on the opening index value of the third Friday of March, June, September, or December as the case may be.

#### B. Proposed Amendments to the Blue Chip CIP

**Revised and Updated List of Component Stocks: See Exhibit A**  
attached to this filing.

**Index Value Ticker Symbol:** Changed from "BIG" to "MKT".

**Trading Symbol:** MKX.

#### C. Technical Amendments to Proposed CIP Trading Rules

The following represents amendments to text set forth in SR-PHLX-88-07, new language italicized, deleted language bracketed.

#### Rules Applicable to Trading of Cash Index Participations Applicability and Definitions

**Rule 1000B. (a) Applicability.** The Rules in this Section are applicable only to cash index participations. In addition, except to the extent that specific rules in this Section govern, or unless the context otherwise requires, the provisions of the following Options Rules applicable to stock options and options on indices shall be applicable to the trading on the Exchange of cash index participations: PHLX Options Rules 1000(b), 1004, 1005, 1006, 1008, 1013, 1014, 1015, 1017, 1018, 1019, 1020, 1022, 1024, 1025, 1026, 1027, 1028, 1029, 1032, 1035, 1037, 1038, 1039, 1040, 1041, [1043,] 1045, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1070, 1047A.

Compliance with Rules 1001, 1002, and 1003 shall be determined as set forth in Rules 1005B, 1006B, and 1007B.

#### Margin Accounts

**Rule 722. (a) \***

**(c)9. CIPs.** The margin which must be maintained in margin accounts of customers, whether members, partners of members, member firms, member corporations, or stockholders therein or non-members, shall be as follows:

1. 25% of the market value of all "long" CIP positions in the account plus;
2. 30% of the market value, in cash, of each "short" CIP position in the account;
3. No margin need be required in respect of a CIP carried "short" in a customer's account when the customer has *executed and delivered* to the member organization carrying the account [a letter of guarantee] *an escrow receipt* meeting the requirements of Rule [601] 1909 of the Options Clearing Corporation [Certifying that the guarantor holds for the customer a security for the letter: (1) cash, (2) cash equivalents, (3) one or more qualified securities, or (4) a combination thereof, that such deposit has a market value, computed as of the close of each business day in which the "short" position is carried in the customer account, of not less than 130% of the aggregate current market value of the CIPs, and that the guarantor will promptly pay the member organization

the exercise settlement amount in the event the account is assigned an exercise notice. A qualified security has the meaning specified in Rule 722(c)(2)(G).]

The following represents a proposed new rule to be added to the CIP trading rules. New text is underscored.

#### *Delivery and Payment*

**Rule 1008B-1.** In accordance with the applicable Rules of the Options Clearing Corporation, the settlement of CIPs will be by the CIP closing index value times the index multiplier times the number of CIPs exercised in accordance with the cash-out privilege.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change*

The proposed rule change represents amendments to SR-PHLX-88-07 regarding the PHLX's proposal to trade CIPs. While most of the amendments are technical in nature, the major amendment announces the PHLX's proposal to trade a CIP based on the S&P 500 while simultaneously withdrawing its proposal to trade a CIP on the PHLX's Stock Market CIP Index.

The PHLX believes that the combination of the CIP instrument with one of the best known stock market indexes translates into a potentially tremendously successful hedging and investing tool for all market participants.

The technical amendments have been added after discussions with The Options Clearing Corporation ("OCC"). Specifically, it has been determined that PHLX Option Rules 1008 (regarding "Rights and Obligations of Holders and Writers") and 1035 (regarding "Acceptance of Bid or Offer") should apply to CIPs and, therefore, these rules have been cited in proposed Rule 1000B.

Additionally, Rule 1043 has been deleted from mention in proposed Rule 1000B as the former Rule is redundant with proposed CIP Rule 1009B. Finally, CIP margin provisions regarding covered short CIP writing has been abbreviated to note that the requirements are to be set forth in OCC Rule 1909.<sup>1</sup>

The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 which provides in part that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

The PHLX has prepared this rule change in close coordination with the OCC.

#### **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 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 3, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**  
*Secretary.*

Dated: September 2, 1988.

#### **EXHIBIT A.—THE BLUE CHIP CIP INDEX AS OF AUGUST 1, 1988**

Symbol	Issue	Price	Percent
ALD	Allied Signal Inc.	33.750	2.50
AXP	American Express Co.	27.875	2.06
CAT	Caterpillar Inc.	58.875	4.36
DD	Du Pont Co.	82.500	6.10
DOW	Dow Chemical Company	83.825	6.19
EK	Eastman Kodak Co.	43.250	3.20
GE	General Electric Co.	40.250	2.98
GM	General Motors Corp.	75.750	5.60
GT	Goodyear Tire and Rubber Co.	57.875	4.28
IBM	Int'l Business Mach.	118.000	8.73
JCP	J.C. Penney	48.000	3.55
JNJ	Johnson & Johnson	79.875	5.91
KM	K Mart Company	32.500	2.40
MCD	McDonalds Corp.	43.875	3.25
MEA	Mead Corp.	39.125	2.89
MO	Philip Morris Holding Co.	89.250	6.60
MOB	Mobil Corp.	44.000	3.26
MRK	Merck & Co. Inc.	54.375	4.02
PEP	PepsiCo Inc.	34.875	2.58
PG	Procter & Gamble	72.250	5.34
RLM	Reynolds Metals Co.	48.375	3.58
T	AT&T	25.250	1.87
TRW	TRW Inc.	42.750	3.16
X	USX Corp.	29.125	2.15
XON	Exxon Corp.	46.375	3.43
		1,351.75	1.00

[FR Doc. 88-20601 Filed 9-9-88; 8:45 am]

BILLING CODE 8010-01-M

<sup>1</sup> Proposed Rule 1909 has not yet been submitted to the Commission for its approval. Until Rule 1909 is submitted to the Commission as an amendment to OCC's Index Participation filing (SR-OCC-88-02) or in a separate filing and becomes effective, there will be no "covered short IP positions," and the portions of Rule 1106(b) that address these positions will have no effect.

[File No. 500-1]

**Order of Suspension of Trading; Alan Jones Pit Stop (USA) Inc. et al.**

September 7, 1988.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Alan Jones Pit Stop (USA) Inc., Altura Development Corporation, Americare Resources Institute, Inc., Animated Imagery International, Bitter Corporation, Business News Network, Inc., C-K-N Investments Company, Inc., Classic Golf Cars, Inc., Columbia Electronic Systems, Inc., Columbia International Corporation, Consolidated Precious & Strategic Minerals Corp., Cookie Cup International, Creative Telecom, Inc., Debit One Business Services, Inc., Design Enterprises, Inc., Dunhill Exploration, Inc., East-West Oil & Gas Corporation, GHC International, Golden Glory USA, Inc., Hillside Gold & Minerals, Hudson Bay Group, Inc., International Image Makers, Inc., Life Extension Services, Inc., LRD International, Inc., M.A.G. Holdings, Inc., Nutronics Corporation, Omega Gold Co., Perfect Life, Inc., Phoenix Aviation, Inc., Pro-Pulse Industries, Inc., Quantum Mines, Inc., RDI, Inc., Republic Capital Corporation, Shane Production, Inc., Shell Doney's, Inc., Stop Brake Shops, Inc., Stop-Lok, Inc., and Tempe Transit Authority, and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the corporate histories of the companies, the identities of their shareholders and the claims for exemption from the registration provisions of the Securities Act of 1933 made by these companies and pursuant to which their securities are trading. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies, over-the-counter or otherwise, is suspended for the period from 9:30 a.m. EDT, September 7, 1988 through 11:59 p.m. EDT, on September 16, 1988.

By the Commission:

Jonathan G. Katz,  
Secretary.

[FR Doc. 88-20602 Filed 9-9-88; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF TRANSPORTATION****Office of The Secretary**

[Order 88-9-10; Docket 45397]

**Application of Wings West Airlines, Inc., for Certificate Authority Under Subpart Q****AGENCY:** Department of Transportation.**ACTION:** Notice of order to show cause, [Order 88-9-10] Docket 45397.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Wings West Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in domestic scheduled air transportation of persons, property and mail.

**DATE:** Persons wishing to file objections should do so no later than September 21, 1988.

**ADDRESSES:** Objections and answers to objections should be filed in Docket 45397 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:**  
Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6420), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-2340.

Dated: September 6, 1988.

Gregory S. Dole,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-20620 Filed 9-9-88; 8:45 am]

BILLING CODE 4910-62-M

**DEPARTMENT OF THE TREASURY****Public Information Collection Requirements Submitted to OMB for Review**

Date: September 6, 1988.

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, Pub. L. 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 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

**Alcohol, Tobacco and Firearms****OMB Number:** 1512-0118.**Form Number:** ATF Form 2148 (5200.17).**Type of Review:** Extension.**Title:** Bond-Drawback of Tax on Tobacco Products, Cigarette Papers or Tubes.

**Description:** The bond necessary to secure payment for tobacco articles on which a drawback (refund or tariff or other tax) has been claimed and paid. The bond will secure payments in the event that a claim was not lawfully refunded. The bond describes the particular conditions under which the surety company and drawback claimant adhere to a description of what the bond covers.

**Respondents:** Business and other for-profit, Small businesses or organizations.

**Estimated Number of Respondents:** 50.

**Estimated Burden Hours Per Response:** 1 hour.

**Frequency of Response:** On occasion.

**Estimated Total Reporting Burden:** 50 hours.

**OMB number:** 1512-0163.**Form Number:** ATF Form 5210.5 (3068).**Type of Review:** Extension.**Title:** Manufacturer of Tobacco Products Monthly Report.

**Description:** ATF F 5210.5 (3068) documents a tobacco products manufacturer's accounting of cigars and cigarettes. The form describes the tobacco products manufactured, articles produced, received, disposed of and statistical classes of large cigars. ATF examines and verifies entries on these reports so as to identify unusual activities, errors and omissions.

**Respondents:** Business or other for-profit, Small businesses or organizations.

**Estimated Number of Respondents:** 128.

**Estimated Burden Hours Per Response:** 1 hour.

**Frequency of Response:** Monthly.

**Estimated Total Reporting Burden:** 1,536 hours.

**OMB Number:** 1512-0395.**Form Number:** ATF Form 5100.32.**Type of Review:** Extension.**Title:** Certificate for Distilled Spirits Exported to Italy.

**Description:** ATF F 5100.32 is used by U.S. producer/bottlers of distilled spirits to certify to the Italian Government that

the distilled spirits identified on this form meet Italian standards as required by Italian law and regulation.

*Respondents:* Business or other for-profit, small businesses or organizations.

*Estimated Number of Respondents:* 30.

*Estimated Burden Hours Per Response:* 30 minutes.

*Frequency of Response:* On occasion.  
*Estimated Total Reporting Burden:* 150 hours.

*Clearance Officer:* Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue NW., Washington, DC 20226.

*OMB Reviewer:* Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.  
*Lois K. Holland,*

*Departmental Reports Management Officer.*  
[FR Doc. 88-20611 Filed 9-9-88; 8:45 am]  
**BILLING CODE 4810-25-M**

# Sunshine Act Meetings

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).

## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., Tuesday, September 13, 1988.

**PLACE:** 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

Enforcement Matters.

### CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 88-20749 Filed 9-8-88; 11:55 am]

BILLING CODE 6351-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

**TIME AND DATE:** 10:00 a.m., Wednesday, September 14, 1988.

**LOCATION:** Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

**STATUS:** Open to the Public.

### MATTERS TO BE CONSIDERED:

1. *Voluntary Standard Policy—Proposed Amendment*

The Commission will consider amendments to the Commission's regulations (16 CFR 1031 and 1032) concerning staff participation in voluntary standard activities.

2. *Video Games—Petition HP 84-1*

The staff will brief the Commission on petition HP 84-1 from the Consumer Electronics Group of the Electronic Industries Association requesting the Commission to exempt video games from the Commission's regulation for electrically-operated toys, 16 CFR 1505.

**FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.**

### CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,

*Deputy Secretary.*

September 7, 1988.

[FR Doc. 88-20789 Filed 9-8-88; 8:45 am]

BILLING CODE 6355-01-M

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 53 FR 34192, Friday, September 2, 1988.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 2:00 p.m. (eastern time) Monday, September 12, 1988.

### CHANGE IN THE MEETING:

#### *Closed Session*

"Agency Adjudication and Determination on Federal Agency Discrimination Complaint Appeals," has been taken off the agenda.

### CONTACT PERSON FOR MORE INFORMATION:

Frances M. Hart, Executive Officer, Executive Secretariat, (202) 634-6748.

Date: September 7, 1988.

Frances M. Hart,

*Executive Officer, Executive Secretariat.*

[FR Doc. 88-20789 Filed 9-8-88; 11:51 am]

BILLING CODE 6750-06-M

## FEDERAL ENERGY REGULATORY COMMISSION

### Notice

September 7, 1988

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

**TIME AND DATE:** September 14, 1988, 10:00 a.m.

**PLACE:** 825 North Capitol Street, NE., Room 9306, Washington DC 20426.

**STATUS:** Open.

### MATTERS TO BE CONSIDERED: Agenda.

\*Note.—Items listed on the agenda may be deleted without further notice.

### CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 883rd Meeting—September 14, 1988, Regular Meeting (10:00 a.m.)

CAP-1. Docket No. UL88-25-001, Consolidated Hydro, Inc.

CAP-2. Project No. 7748-006, New York Power Authority

CAP-3.

## Federal Register

Vol. 53, No. 176

Monday, September 12, 1988

Project No. 6221-003, Weyerhaeuser Company

CAP-4.

Project No. 2088-019, Oroville-Wyandotte Irrigation District

CAP-5.

Project No. 96-012, Pacific Gas and Electric Company

CAP-6.

Project Nos. 2307-011 and -012, Alaska Electric Light and Power Company of Juneau

CAP-7.

Project No. 9167-009, Pennsylvania Hydroelectric Development Corporation

CAP-9.

Project No. 5130-003, Floyd N. Bidwell

CAP-10.

Project No. 7269-004, James B. Boyd and Janet A. Boyd

CAP-11.

Project No. 935-013, Pacific Power and Light Company

Project No. 2791-012, Clark-Cowlitz Joint Operating Company

CAP-12.

Project No. 9711-000, Inghams Corporation

CAP-13.

Project No. 9712-000, Beardslee Corporation

CAP-14.

Docket No. ER88-433-000, Central Louisiana Electric Company, Inc.

CAP-15.

Docket No. ER88-358-001, Indiana Michigan Power Company and Commonwealth Edison Company

CAP-16.

Docket No. 84-348-009, American Electric Power Service Corporation

CAP-17.

Docket No. ER81-177-007, Southern California Edison Company

CAP-18.

Docket No. EL87-14-001, City of Vernon, California v. Southern California Edison Company

CAP-19.

Docket No. EL87-32-001, North Arkansas Electric Cooperative, Inc. v. Arkansas Power & Light Company

CAP-20.

Docket No. QF85-736-004, James River Cogeneration Company and Cogentrix of Virginia, Inc.

CAP-21.

Omitted

CAP-22.

Docket No. EL85-5-000, Louisiana Public Service Commission v. Arkansas Power & Light Company, Mississippi Power & Light Company, Middle South Utilities, Inc., and MSU System Services, Inc.

CAP-23.

Docket No. EL87-55-000, City of Holyoke Gas and Electric Department, City of Westfield Gas and Electric Light Department, Marblehead Municipal Light

Department, Middleborough Municipal Gas and Electric Department, North Attleboro Electric Department, Peabody Municipal Light Plant, Shrewsbury Electric Light Department, Templeton Municipal Light Plant, Town of Boylston Municipal Light Department, Town of Hudson Light and Power Department, Town of Littleton Municipal Light and Water Department, Town of Wakefield Municipal Light Department and West Boylston Municipal Lighting Plant v. Boston Edison Company	Docket No. TA88-4-29-000, Transcontinental Gas Pipe Line Corporation	CAG-28.
CAP-24.	Docket Nos. TQ88-1-27-002 and RP88-151-002, North Penn Gas Company	Docket No. RP85-206-040, Northern Natural Gas Company, Division of Enron Corp.
CAG-6.	Docket Nos. TA88-49-001 and TA88-3-49-002, Williston Basin Interstate Pipeline Company	CAG-29.
CAG-7.	Docket Nos. RP88-168-003, Raton Gas Transmission Company	Docket Nos. RP88-181-001 and RP88-94-009, Sea Robin Pipeline Company
CAG-8.	Docket No. RP88-156-000, RP88-156-002 and TQ88-1-49-000, Williston Basin Interstate Pipeline Company	CAG-30.
CAG-9.	Docket Nos. RP88-136-000 and 001, El Paso Natural Gas Company	Docket Nos. RP88-125-001, TQ88-1-22-001 and TA87-3-22-004, CNG Transmission Corporation
CAG-10.	Docket No. RP88-149-002, Paiute Pipeline Company	CAG-31.
CAG-11.	Docket No. RP88-45-007, Arkla Energy Resources, a division of Arkla, Inc.	Docket Nos. RP88-80-005 and 006, Texas Eastern Transmission Corporation
CAG-12.	Docket No. RP87-7-037, Transcontinental Gas Pipe Line Corporation	CAG-32.
CAG-13.	Docket No. RP88-203-001, Panhandle Eastern Pipe Line Company	Docket No. CP85-711-001, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. v. Columbia Gas Transmission Corporation
CAG-14.	Docket Nos. RP88-175-001, RP88-81-008 and RP88-67-007, Texas Eastern Transmission Corporation	CAG-33.
CAG-15.	Docket No. RP88-210-001, Southern Natural Gas Company	Docket No. RP88-67-006, Texas Eastern Transmission Corporation
CAG-16.	Docket No. RP85-169-040, CNG Transmission Corporation	CAG-34.
CAG-17.	Docket No. RP88-210-001, Southern Natural Gas Company	Docket No. RP88-213-000, Colorado Interstate Gas Company
CAG-18.	Docket Nos. RP82-71-025, CP85-636-006, CP85-775-005 and CP86-633-003, Northern Natural Gas Company, Division of Enron Corp.	CAG-35.
CAG-19.	Docket No. RP88-96-004, Southern Natural Gas Company	Docket No. ST88-3342-000, Wintershall Pipeline Corporation
CAG-20.	Docket No. RP88-195-001, Northern Border Pipeline Company	CAG-36.
CAG-21.	Docket No. RP88-196-001, Interstate Power Company	Docket Nos. CP85-487-000, CP85-488-000 and CP85-672-000, Distegas of Massachusetts Corporation and Algonquin Gas Transmission Company
CAG-22.	Docket Nos. CP88-291-004 and CP87-484-001, Natural Gas Pipeline Company of America	CAG-37.
CAG-23.	Docket No. RP88-201-002, East Tennessee Natural Gas Company	Docket Nos. G-4579-054 and G-2758-002, Mobil Exploration and Producing North America, Inc. and Texaco Inc. and Texaco Producing Inc.
CAG-24.	Docket No. RP88-68-005, Transcontinental Gas Pipe Line Corporation	CAG-38.
CAG-25.	Docket No. RP87-73-005, Algonquin Gas Transmission Company	Docket Nos. CI73-334-001 and CI73-476-001, Mobil Exploration and Producing North America, Inc.
CAG-26.	Docket Nos. RP88-198-001, RP88-198-002, and RP88-198-003, Transwestern Pipeline Company	Docket Nos. CI74-610-001 and CI80-133-002, Mobil Oil Exploration and Producing Southeast, Inc.
CAG-27.	Docket Nos. RP88-93-003 and RP88-40-004, Questar Pipeline Company	CAG-39.
CAG-28.		Omitted
CAG-29.		CAG-40.
CAG-30.		Docket No. CI87-811-001, CNG Trading Company
CAG-31.		Docket No. CI85-673-004, LaSER Marketing Company, a division of LaSalle Energy Corp. (formerly UER Marketing Company)
CAG-32.		Docket No. CI86-7-004, Seagull Marketing Services, Inc.
CAG-33.		Docket No. CI86-27-005-Transco Energy Marketing Company
CAG-34.		Docket No. CI86-168-004, Tennegasco Corporation and Tennegasco Exchange Corporation
CAG-35.		Docket Nos. CI86-377-001 and CI86-378-001, Arkla Energy Marketing Company
CAG-36.		Docket No. CI86-413-002, ANR Gathering Company
CAG-37.		Docket No. CI86-419-002, ANR Supply Company
CAG-38.		Docket No. CI86-421-002, Coastal States Industrial Sales Company (formerly Texcol Industrial Sales Company)
CAG-39.		Docket No. CI86-503-002, Sonat Marketing Company (formerly SNG Trading, Inc.)
CAG-40.		Docket No. CI87-295-001, Gulf Energy Marketing Company
CAG-41.		
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Docket No. CI87-307-001, MidCon Marketing Corp.  
 Docket No. CI87-476-001, TXG Gas Marketing Company  
 Docket No. CI87-547-001, Enron Gas Marketing, Inc.  
 Docket No. CI87-621-001, Mountain Industrial Gas Company  
 Docket No. CI87-734-001, Northwest Marketing Company  
 Docket No. CI87-738-002, Williams Gas Marketing Company  
 Docket No. CI87-786-001, Val Gas, L.P.  
 Docket No. CI87-825-001, V.H.C. Gas Systems, L.P.  
 Docket No. CI87-847-001, Texas Eastern Gas Services Company  
 Docket No. CI87-883-001, Meridian Oil Trading Inc.  
 Docket No. CI88-1-001, CSX Oil & Gas Corporation  
 Docket No. CI88-74-001, Panhandle Trading Company  
 Docket No. CI88-274-000, Coastal States Gas Transmission Company  
 Docket No. CI88-328-000, Ringwood Marketing Company  
 Docket No. CI88-346-000, Cabot Energy Marketing Corporation  
 Docket No. CI88-382-000, Teal Gathering Company, CI88-452-000, ALG Gas Supply Company, ALG Gas Supply Company of Arkansas, ALG Gas Supply Company of Kansas, ALG Gas Supply Company of Louisiana, ALG Gas Supply Company of Oklahoma and ALG Gas Supply Company of Texas, CI87-481-000, CNG Producing Company and CI88-490-000, Texcol Gas Services, Inc.  
 CAG-41.  
 Docket No. CI88-223-001, OXY USA Inc.  
 CAG-42.  
 Docket No. CP88-18-003, Florida Gas Transmission Company  
 CAG-43.  
 Docket No. CP88-8-003, Great Lakes Gas Transmission Company  
 CAG-44.  
 Docket No. CP87-407-003, National Fuel Gas Supply Corporation  
 CAG-45.  
 Docket No. CP86-344-002, CNG Transmission Corporation  
 CAG-46.  
 Docket No. CP87-519-001, Colorado Interstate Gas Company  
 CAG-47.  
 Docket No. CP87-451-012, Northeast U.S. Pipeline Projects  
 CAG-48.  
 Docket Nos. CP87-4-000, CP87-4-001 and CP87-4-003, PennEast Gas Service Company and Texas Eastern Transmission Corporation  
 Docket No. CP87-5-000, CNG Transmission Corporation  
 Docket Nos. CP87-28-000 and CP87-27-003, Texas Eastern Transmission Corporation  
 CAG-49.  
 Docket No. CP87-442-002, ANR Pipeline Company  
 CAG-50.  
 Docket No. CP87-165-001, Overthrust Pipeline Company  
 CAG-51.  
 Docket No. CP87-451-011, Northeast U.S. Pipeline Project

CAG-52.  
 Docket No. CP88-11-001, Hadson Gas Systems, Inc.  
 CAG-53.  
 Docket No. CP88-286-000, Cascade Natural Gas Corporation v. Northwest Pipeline Corporation, Chevron Chemical Company, Intermountain Gas Company, Hadson Gas Systems, Inc., Llano, Inc., Corpus Christi Industrial Pipeline Company and Transco Energy Marketing Company  
 CAG-54.  
 Docket Nos. CP88-269-002, CP88-346-002 and CP88-459-001, Alabama-Tennessee Natural Gas Company  
 CAG-55.  
 Docket No. CP88-89-001, Tarpon Trnsmission Company  
 CAG-56.  
 Docket No. CP87-17-001, United Gas Pipe Line Company  
 CAG-57.  
 Docket No. CP81-225-002, CP87-410-001 and CP87-184-001, Great Lakes Gas Transmission Company  
 CAG-58.  
 Docket No. CP87-238-001, Ozark Gas Transmission System  
 CAG-59.  
 Docket No. CP86-261-001, National Fuel Gas Supply Corporation  
 CAG-60.  
 Docket No. CP88-35-001, Great Lakes Gas Transmision Company  
 CAG-61.  
 Omitted  
 CAG-62.  
 Docket No. CP88-402-000, Trunkline Gas Company  
 CAG-63.  
 Docket No. CP88-306-000, United Gas Pipe Line Company  
 CAG-64.  
 Omitted  
 CAG-65.  
 Docket No. CP88-226-000, Columbia Gas Transmission Corporation  
 CAG-66.  
 Docket Nos. CP82-239-000, CP87-326-000, CP87-327-000, CP87-350-000 and CP88-78-000, Northwest Pipeline Corporation  
 CAG-67.  
 Docket No. CP88-110-000 and CP88-254-000, Northwest Pipeline Corporation  
 CAG-68.  
 Docket Nos. CP87-148-000, CP87-390-000 and CP86-240-001, Columbia Gas Transmission Corporation  
 CAG-69.  
 Docket No. CP88-317-000, ANR Pipeline Company  
 CAG-70.  
 Docket No. CP88-284-000, Questar Pipeline Company  
 CAG-71.  
 Docket Nos. CP88-160-003 and CP88-161-003, Distrigas of Massachusetts Corporation  
 CAG-72.  
 Docket No. CP88-576-000, Indeck Gas Supply Corporation

*I. Licensed Project Matters*

P-1.  
 Reserved

*II. Electric Rate Matters*

ER-1.  
 Docket No. E-8851-001, Alabama Power Company. Opinion on initial decision regarding compliance rates.

*Miscellaneous Agenda*

M-1.  
 Reserved  
 M-2.  
 Reserved

*I. Pipeline Rate Matters*

RP-1.  
 Docket Nos. TA85-1-18-003 and TA85-2-18-002, Texas Gas Transmission Corporation. Order concerning whether any "abuse" existed to deny passthrough of gas costs.

RP-2.

Docket Nos. CP-86-378-000, CP86-379-000, CP86-380-000, CP88-136-000 and RP85-177-044, RP85-177-045 and RP85-177-048, Texas Eastern Transmission Corporation. Order concerning gas inventory charge.

*II. Producer Matters*

CI-1.  
 Reserved

*III. Pipeline Certificate Matters*

C-1(A).  
 Docket No. CP87-451-009, Northeast U.S. Pipeline Projects  
 Docket Nos. CP87-92-000, 001, 002 and 003, Texas Eastern Transmission Corporation and PennEast Gas Services Company  
 Docket Nos. CP88-179-000 and 001, Texas Eastern Transmission Corporation  
 Docket Nos. CP87-312-000, 001, CP88-197-000, 001, CP88-388-000 and 001, PennEast Gas Services Company  
 Docket Nos. CP87-313-000, 001, CP87-314-000, 001, CP87-5-000 and 001, CNG Transmission Corporation  
 Docket Nos. CP88-554-000 and 001, Algonquin Gas Transmission Corporation  
 Docket Nos. CP87-380-000 and 001, Algonquin Gas Transmission Corporation and Texas Eastern Transmission Corporation  
 Docket Nos. CP88-177-000 and 001, Transcontinental Gas Pipe Line Corporation. Procedural order regarding offer of settlement filed by Associated PennEast Customers.

C-1(B).  
 Docket Nos. CP88-129-000, CP88-129-001, CP88-129-002, CP88-163-000 and CP88-164-000, Columbia Gas Transmission Corporation. Application for abandonment and certificate to replace 28 miles of pipeline and increase maximum operating pressure.

C-1(C).  
 Docket No. CP87-85-000, Tennessee Gas Pipeline Company. Application for abandonment and certificate.

CP-2.  
 Docket No. CP87-131-000, CP87-131-001, CP87-132-000 and CP87-132-001, Tennessee Gas Pipeline Company. Application to construct facilities and

transport gas to supply Ocean State power plant. Also, order on application to construct and operate Niagara Spur, Phase II.

**Lois D. Cashell,**  
*Acting Secretary.*

[FR Doc. 88-20818 Filed 9-8-88; 4:05 pm]  
BILLING CODE 6717-01-M

#### INTER-AMERICAN FOUNDATION BOARD

**TIME AND DATE:** September 28, 1988, 6:00-9:30 p.m.

**PLACE:** 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

1. The Chairman's Report
2. The President's Report
3. Preview and Discussion of Peruvian Video
4. Report and Discussion on New SPTF Agreement
5. Board Audit Committee Report
6. Approval of the Minutes of the May 9-10, 1988, Board Meeting

#### CONTACT PERSON FOR MORE INFORMATION:

**Charles M. Berk,**  
Secretary to the Board of Directors, (703) 841-3812.

**Charles M. Berk,**  
*Sunshine Act Officer.*

[FR Doc. 88-20777 Filed 9-8-88; 1:45 pm]  
BILLING CODE 7025-01-M

#### NATIONAL CREDIT UNION ADMINISTRATION

##### Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires that the previously announced closed meeting on Thursday, September 15, 1988, include an additional item, which is closed to public observations:

**Change to Delegations of Authority.** Closed pursuant to exemption (2).

The Board unanimously voted to add this item to the closed agenda.

The previously announced items are:

1. Approval of Minutes of Previous Closed Meeting.
2. Appeal of Denial of Charter Application. Closed pursuant to exemptions (4) and (8).
3. Central Liquidity Facility Lines of Credit for FY 1989. Closed pursuant to exemptions (4), (8), and (9)(A)(ii).
4. Request by a FCU to Expand its Field Membership. Closed pursuant to exemptions (8) and (9)(A)(ii).

**FOR MORE INFORMATION CONTACT:** Becky Baker, Secretary of the Board, Telephone (202) 357-1100.

**Becky Baker,**  
*Secretary of the Board.*

[FR Doc. 88-20790 Filed 9-8-88; 1:46 pm]  
BILLING CODE 7535-01-M

#### SECURITIES AND EXCHANGE COMMISSION

##### Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 12, 1988.

A closed meeting will be held on Tuesday, September 13, 1988, at 2:30 p.m. An open meeting will be held on Thursday, September 15, 1988, at 3:00 p.m. in room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 13, 1988, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, September 15, 1988, at 3:00 p.m., will be:

1. Consideration of a release adopting amendments to Rule 17f-1 under Section 17 of the Securities Exchange Act of 1934, which governs the Commission's Lost and Stolen Securities Program. For further information, please contact Christine Sakach at (202) 272-2882.

2. Consideration of whether to propose for public comment rules 203(b)(1)-1 and

203(b)(3)-2 under the Investment Advisers Act of 1940 ("Act"). The proposed rules would exempt from federal registration certain small advisers registered in each state in which they do business who, among other things, have a limited number of clients and funds under management. The Commission is also considering proposing for public comment amendments to five rules under the Act that would relieve from those rules' requirements advisers that do not register under the Act in reliance on the exemptions. For further information, please contact Dorothy M. Donohue, at (202) 272-2107.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272-3077.

September 8, 1988.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 88-20818 Filed 9-8-88; 4:05 pm]  
BILLING CODE 8010-01-M

#### UNITED STATES INSTITUTE OF PEACE

**DATE:** Thursday, and Friday, September 15, and 16, 1988.

**TIME:** 9:15 a.m. to 5:00 p.m.

**PLACE:** The United States Institute of Peace, 1550 M Street, NW. ground floor (conference room).

**STATUS:** Open session—9:15 a.m. to 12:30 p.m. (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. (98-525).

**AGENDA (TENTATIVE):** Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Consideration of the minutes of the Twenty-fifth meeting. Consideration of grant application matters.

**CONTACT:** Ms. Olympia Diniak. Telephone (202) 457-1700.

Dated: September 7, 1988.

**Bernice J. Carney,**  
*Administrative Officer, The United States Institute of Peace.*

[FR Doc. 88-20646 Filed 9-8-88; 9:13 am]  
BILLING CODE 3155-01-M

# Corrections

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed, Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 74, 81, and 82

[Docket No. 87N-0182]

### Color Additives; D&C Red No. 36

#### Correction

In rule document 88-17360 beginning on page 29024 in the issue of Tuesday, August 2, 1988, make the following corrections:

1. On page 29027, in the first column, in the third complete paragraph, in the third line "21 CFR 40.3(i)" should read "21 CFR 70.3(i)".

2. On the same page, in the third column, in the second complete paragraph, in the second line from the bottom "DC-1" should read "CD-1". –

#### § 74.1336 [Corrected]

3. On page 29031, in the second column, in § 74.1336(b), in the entry for "Mercury", in the first line "parts" should read "part".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CA-010-08-4212-13; CA 21707]

### Realty Action; Exchange of Public and Private Lands in Placer and Santa Clara Counties CA

#### Correction

In notice document 88-4567 beginning on page 6878 in the issue of Thursday, March 3, 1988, make the following correction:

On page 6878, in the third column, under Mount Diablo Meridian, California, Santa Clara County, the sixth line should read "Sec. 35: N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$ ".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WY-930-08-4220-11; WYW 73082, WYW 043671, WYW 043372, WYW 040577, WYW 094183, WYW 0105362, WYW 22216]

### Proposed Continuation of Forest Service Withdrawals; Wyoming

#### Correction

In notice document 88-19903 beginning on page 33882 in the issue of Thursday, September 1, 1988, make the following corrections:

1. On page 33882, in the third column, in the heading, the docket number appeared incorrectly and should read as set forth above.

## Federal Register

Vol. 53, No. 176

Monday, September 12, 1988

2. On page 33883, in the second column, under "Shell Creek Campground", the first line should read "T. 53 N., R. 88 W.,".

3. On the same page, in the same column, under "Ranger Creek Campground", the second line should read "Sec. 19, SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ,".

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 13

[Docket No. 25687; Amdt. No. 13-17]

### Airport-Related Proceedings

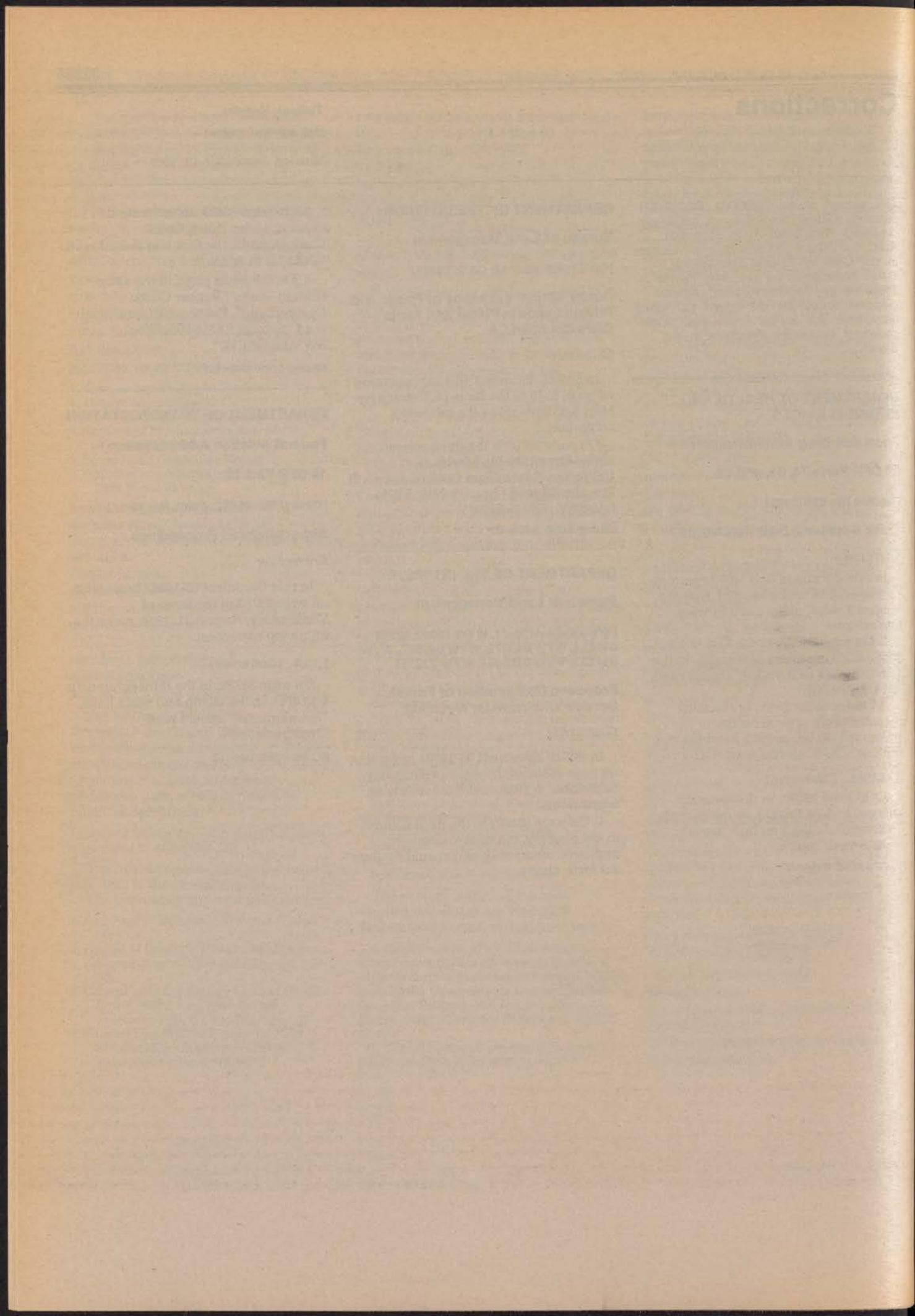
#### Correction

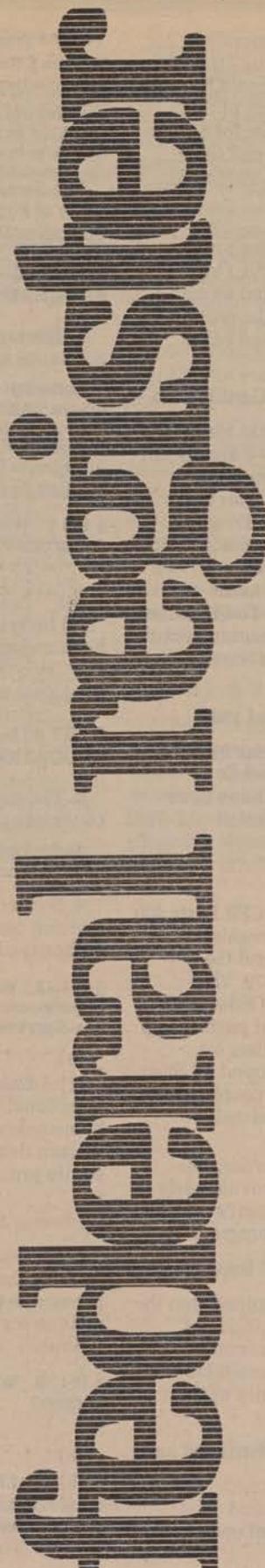
In rule document 88-19847 beginning on page 33782 in the issue of Wednesday, August 31, 1988, make the following correction:

#### § 13.3 [Corrected]

On page 33783, in the third column, in § 13.3(b), in the eighth and ninth lines, "Development" should read "Improvement".

BILLING CODE 1505-01-D





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Monday  
September 12, 1988

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**Part II**

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**Department of  
Education**

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**34 CFR Parts 400 and 401  
State Vocational Education Program;  
Final Regulations**

**DEPARTMENT OF EDUCATION****34 CFR Parts 400 and 401****State Vocational Education Program****AGENCY:** Department of Education.**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the regulations governing the State Vocational Education Program. These final regulations implement statutory changes in Title II, Part D of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297).

**EFFECTIVE DATE:** These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Sharon A. Jones, Chairperson, Vocational Education Regulations Taskforce, U.S. Department of Education (Mary E. Switzer Building, Room 4521), 400 Maryland Avenue, SW., Washington, DC 20202-7120. Telephone: (202) 732-2470.

**SUPPLEMENTARY INFORMATION:****Background**

These final regulations implement recent changes to the Carl D. Perkins Vocational Education Act (Act), 20 U.S.C. 2301 *et seq.* (Supp. IV 1986), made by Title II, Part D of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Pub. L. 100-297.

The regulations being amended affect the State Vocational Education Program which assists States in conducting, directly or through awards to local recipients, vocational education programs. The regulations that govern the State Vocational Education Programs are in 34 CFR Parts 400 and 401, and were published in the **Federal Register** on August 16, 1985 (50 FR 33226) and July 14, 1986 (50 FR 25492).

**Waiver of Proposed Rulemaking**

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to publish regulations in proposed form and to offer interested parties the opportunity to comment on the proposed regulations.

Because these regulations merely incorporate changes made by statute, however, public comment could have no effect. Therefore, publication of this document as a proposed rule for public comment has been determined to be unnecessary under 5 U.S.C. 553(b)(B).

**Executive Order 12291**

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. Under the State Vocational Education Program, grants are available only to States, and States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act. To the extent that these regulations have an impact on small entities, they repeat statutory requirements.

**Paperwork Reduction Act of 1980**

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

**Intergovernmental Review**

Programs covered by 34 CFR Parts 400 and 401 are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Assessment of Educational Impact**

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Parts 400 and 401**

Administrative practice and procedure, Education, Grant programs, Vocational education.

Dated: August 26, 1988.

William J. Bennett,

*Secretary of Education.*

(Catalog of Federal Domestic Assistance Numbers: 84.048 Vocational Education Basic Grants to States.)

The Secretary amends Title 34 of the Code of Federal Regulations by amending Parts 400 and 401 as follows:

**PART 400—VOCATIONAL EDUCATION PROGRAMS—GENERAL PROVISIONS**

1. The authority citation for Part 400 continues to read as follows:

Authority: 20 U.S.C. 2301 *et seq.*, unless otherwise noted.

2. Section 400.1 is amended by revising paragraph (b)(5) and the authority citation to read as follows:

**§ 400.1 What are the purposes of the Carl D. Perkins Vocational Education Act?**

(b) \* \* \*

(5) Individuals who are single parents, homemakers, or single pregnant women;

(Authority: 20 U.S.C. 2301, 2331)

**PART 401—STATE VOCATIONAL EDUCATION PROGRAMS**

3. The authority citation for Part 401 continues to read as follows:

Authority: 20 U.S.C. 2301 *et seq.*, unless otherwise noted.

4. Section 401.13 is amended by revising paragraph (a)(1) and the authority citation to read as follows:

**§ 401.13 What are the personnel requirements regarding the elimination of sex discrimination and sex stereotyping?**

(a) \* \* \*

(1) Administering the program of vocational education for single parents, homemakers, and single pregnant women described in § 401.55 and the sex equity program described in § 401.56;

(Authority: 20 U.S.C. 2321(b), 2331)

5. Section 401.19 is amended by revising the introductory text of paragraph (a)(6) and the authority citation for paragraph (a)(6) to read as follows:

**§ 401.19 What must the State plan contain?**

(a) \* \* \*

(6) That in using funds allotted for single parents, homemakers, or single pregnant women under § 401.92(d)—

(Authority: 20 U.S.C. 2323(b)(7), 2331)

\* \* \* \* \*

6. Section 401.51 is amended by revising paragraph (d) and the authority citation to read as follows:

**§ 401.51 What is the Vocational Education Opportunities Program?**

\* \* \* \* \*

(d) Individuals who are single parents, homemakers, or single pregnant women;

\* \* \* \* \*

(Authority: 20 U.S.C. 2331 (a), (b))

7. Section 401.55 is revised to read as follows:

**§ 401.55 How may funds under the Vocational Education Opportunities Program be used to serve individuals who are single parents, homemakers, or single pregnant women?**

A State shall use funds reserved for individuals who are single parents, homemakers, or single pregnant women in accordance with § 401.92(d) only to—

(a) Provide, subsidize, reimburse, or pay for vocational education and training activities, including basic literacy instruction and necessary educational materials, that will give single parents, homemakers, or single pregnant women marketable skills;

(b) Make subgrants to eligible recipients for expanding vocational education services where this expansion directly increases the eligible recipients' capacity for providing single parents, homemakers, or single pregnant women, with marketable skills;

(c) Make subgrants to community-based organizations for the provision of vocational education services to single parents, homemakers, or single pregnant women, if the State determines that a community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, homemakers, or single pregnant women, taking into account the demonstrated performance of such an organization in terms of the cost and quality of its training and the characteristics of the participants;

(d) Make vocational education and training programs more accessible to single parents, homemakers, or single pregnant women, by assisting them with child care or transportation services or by organizing and scheduling those programs so that they are more accessible; or

(e) Provide information to single parents, homemakers, or single pregnant women to inform them of vocational education programs and related support services.

(Authority: 20 U.S.C. 2331(f))

8. Section 401.92 is amended by revising paragraph (d) and removing the words "and homemakers" from the third sentence of the *Example*, and adding, in their place, ", homemakers, or single pregnant women", and revising the authority citation to read as follows:

**§ 401.92 How does a State reserve funds under the Vocational Education Opportunities Program?**

\* \* \* \* \*

(d) Eight and one-half percent of the total amount described in § 401.90(b) for individuals who are single parents, homemakers, or single pregnant women;

\* \* \* \* \*

(Authority: 20 U.S.C. 2331, 2332)

9. Section 401.94 is amended by revising paragraph (b)(1)(iv) and the authority citation to read as follows:

**§ 401.94 What are the cost-sharing requirements under the State Vocational Education Program?**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) Projects, services, and activities for individuals who are single parents, homemakers, or single pregnant women, individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education, and criminal offenders who are in correctional institutions under the Vocational Education Opportunities Program, is one hundred percent; and

\* \* \* \* \*

(Authority: 20 U.S.C. 2331, 2462(a); House Report No. 98-1129, 98th Cong., 2d Sess. 98 (1984))

[FR Doc. 88-20618 Filed 9-9-88; 8:45 am]

BILLING CODE 4000-01-M



U.S. DEPARTMENT OF  
EDUCATION

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Monday  
September 12, 1988

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**Part III**

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**Department of  
Education**

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**Women's Educational Equity Act  
Program; Applications for New Awards  
for Fiscal Year 1989; Notice**

**DEPARTMENT OF EDUCATION**

[CFDA No.: 84.083]

**Women's Educational Equity Act Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1989**

*Note to applicants:* This notice is a complete application package containing all the necessary information, application forms, and instructions needed to apply for a grant under this program. However, before submitting applications, applicants should familiarize themselves with all of the provisions and requirements of the Women's Educational Equity Act Program, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 3041-47) and in 34 CFR Part 745.

*Purpose of program:* To promote educational equity for women and girls in the United States, particularly those who suffer multiple discrimination, bias, or stereotyping; and to provide assistance to enable educational agencies and institutions to meet the requirements of Title IX of the Educational Amendments of 1972.

*Deadline for transmittal of applications:* October 24, 1988.

*Deadline for intergovernmental review:* December 23, 1988.

*Available funds:* It is estimated that approximately \$2,436,000 will be available for fiscal year 1989 awards under this program. However, applicants should note that the Congress has not yet completed action on the fiscal year 1989 appropriation.

*Estimated range of awards:* Challenge Grants \$20,000—\$40,000; General Grants \$50,000—\$200,000.

*Estimated average size of awards:* Challenge: \$35,000; General and Local Significance: \$125,000.

*Estimated number of awards:* Challenge Grants—16; General Grants—15.

*Project period:* Up to 12 months.

*Applicable regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), Part 78 (Education Appeal Board), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), and Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments); and (b) the

regulations for this program in 34 CFR Part 745.

**Supplementary Information and Requirements****Description of Program**

The Women's Educational Equity Act (WEEA) Program provides assistance to projects of national, statewide, or general significance, to conduct demonstration, developmental, and dissemination activities designed to promote, advance, ensure, or achieve educational equity for women and girls at all levels of education. Projects of general significance include challenge grants—not to exceed \$40,000 each—for projects to develop new dissemination and replication strategies and innovative approaches to achieving the purposes of the WEEA.

**Eligible Applicants**

Public agencies, nonprofit private agencies, organizations, institutions—including student and community groups—and individuals are eligible to receive grants. Consortia of public agencies and nonprofit private organizations may apply for challenge grants.

**Priority**

For FY 1989, the Secretary has reserved 30% of the funds for the priority under 34 CFR 745.24 of the WEEA regulations for model projects on educational equity for racial and ethnic minority women and girls. This priority applies to general significance and challenge grants. An applicant must indicate if it is submitting its application under this priority. Applications under this priority compete against other applications submitted under this priority for funds allocated to this priority. An applicant may propose a project that is not under this priority but is within the scope of the authorized activities described below. These applications will compete for the 70% of funds not allocated to the priority. If an applicant fails to identify a priority, the application will compete with other applications that are not under this priority.

(20 U.S.C. 3045)

**Invitational Priority**

In addition to the priority described above, the Secretary invites applicants to propose projects designed to promote and foster—

- (a) Strong instructional leadership;
- (b) A safe and orderly climate in schools and related facilities;
- (c) Frequent assessment of pupil progress;

(d) High teacher expectations for student achievement;

(e) Cost-effectiveness for ease of replication or continuation without Federal funding; or

(f) A positive impact on the family. However, an application that addresses this invitational priority does not receive a competitive or absolute preference over other applications.

**Evaluation Criteria**

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under the WEEA Program.

(2) The total possible score for a general grant application is 100 points.

(3) The total possible score for a challenge grant application is 105 points.

(4) The maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria—(1) Need and impact.* (24 points)

The Secretary determines the extent to which—

(i) The proposed project focuses on needs that are central to the purpose of the Act; (9 points)

(ii) The applicant documents the significance of the needs addressed by the project; (7 points)

(iii) The applicant shows knowledge of similar projects in the subject area and shows how this project makes a distinct contribution; (4 points) and

(iv) The model program, product, or results of the proposed project has national, statewide, or general significance to the achievement of educational equity for women. (4 points)

(2) *Objectives.* (16 points)

The Secretary determines the extent to which—

(i) The proposed project establishes objectives which are likely to meet the identified needs; (8 points) and

(ii) The proposed project describes a realistic approach to meeting the objectives. (8 points)

(3) *Plan of operation.* (40 points)

The Secretary determines the extent to which—

(i) The strategy and activities proposed to implement the project are likely to accomplish the project's objectives successfully; (8 points)

(ii) The applicant plans to develop the project in cooperation with representative groups relevant to the project's success, such as potential participants, community representatives, women's groups, students, key administrators, teachers, or faculty; (7 points)

(iii) The applicant demonstrates that the project will address or can be

adapted to address the educational equity needs of racial and ethnic minority group women; (8 points)

(iv) The applicant sets out an effective management plan including appropriate resource allocation, realistic schedules, and a sufficient amount of time to be spent on the project by the proposed staff members; (8 points)

(v) The applicant describes an effective general plan for evaluation; (3 points) and

(vi) The budget and narrative show that proposed costs are reasonable in relation to the objectives and scope of the project. (6 points)

(4) *Applicant's commitment to educational equity for women.* (10 points)

(i) The Secretary determines the extent to which the applicant demonstrates its commitment to educational equity for all women, including racial and ethnic minority women and disabled women.

(ii) Among the factors the Secretary considers in determining the applicant's commitment to educational equity for all women, are—

(A) The applicant's staffing pattern, with emphasis on employment of women in positions in which they have been underrepresented;

(B) The applicant's recruiting methods; and

(C) The applicant's other efforts to ensure educational equity for all women.

(5) *Staff qualifications.* (10 points)

(a) The Secretary determines the extent to which—

(i) The project director has the qualifications and capability to conduct the project successfully; (6 points) and

(ii) The staff has the qualifications and capability to implement the project successfully. (4 points)

(b) In evaluating the qualifications and capability of the project director and staff, the Secretary considers—

(i) Formal educational training;

(ii) Employment or volunteer experience;

(iii) Experience in designing, managing, or implementing similar projects; and

(iv) Experience in addressing issues of women's educational equity in various contexts and settings, such as community groups.

(6) *Innovative approaches.* (5 points)

The Secretary considers the extent to which the applicant for a challenge grant demonstrates how the project uses a new or untried approach to achieving educational equity for women in a particular area.

(20 U.S.C. 3045)

#### *Evaluation*

(a) Applications must include policies and procedures to ensure adequate evaluation of the activities to be carried out under the application including, where appropriate, an evaluation or estimate of the potential for continued significance following completion of the grant period.

(b) Before making an award, the Secretary requires an applicant to submit a detailed expansion of the evaluation plan submitted with the application, unless the application contained a detailed plan that the Secretary approves without changes.

(20 U.S.C. 3043(a))

#### *Authorized Activities*

(a) Grants may support demonstration, developmental, and dissemination activities that promote educational equity for women and girls at any level of education, including preschool, elementary and secondary education, higher education, and adult education.

(b) Types of authorized activities include:

(1) The development—if materials are commercially unavailable—and evaluation of curricula, textbooks, and other educational materials.

(2) Model training programs for educational personnel.

(3) Research and development projects.

(4) Guidance and counseling activities, including the development of nondiscriminatory tests.

(5) Educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women.

(6) Expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration.

(c) A project must have national, statewide, or general significance.

(d) The Secretary awards at least one grant or contract each fiscal year for the performance of each of the activities described in paragraph (b) of this section.

(20 U.S.C. 3042(a))

#### *Allowable Costs*

The Secretary allows the payment of stipends, travel costs, and child care costs to persons who participate in training provided under a grant and to persons who participate in field testing of materials and programs developed under a grant. Payments may also be made to cover tuition and fees for

participants in a grantee's long-term training project. The Secretary approves these payments only if the applicant or grantee demonstrates that the payments are necessary to achieve the objectives of the project. Participants in training or in field testing activities may receive stipends only if they are not otherwise paid for the time during which they participate in the training or field testing. If further guidance on allowable types of stipends is required, applicants should review 34 CFR 745.11 of the WEEA regulations.

(20 U.S.C. 3042(a))

#### *Award Decisions*

In addition to the factors that the Secretary considers in selecting projects for funding listed in 34 CFR 745.28 of the WEEA regulations, the Secretary gives special consideration to applications from applicants that have not previously received assistance under this program.

#### *Intergovernmental Review of Federal Programs*

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the Single Point of Contact for each State and follow the procedure established in those States under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the *Federal Register* on November 18, 1987, pages 44338-44340.

In States that have not established a process or chosen a program for review, State, areawide, regional and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—

CFDA #84.083, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-0100.

Proof of mailing will be determined on the same basis as applications.

*Instructions for Transmittal of Applications*

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.083, Washington, DC 20202-4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.083, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202-4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped, self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope the CFDA number and letter of the competition under which the application is being submitted: "84.083A," for general grants, and "84.083B," for challenge grants.

*For further information contact: Mrs. Alice T. Ford, Women's Educational Equity Act Program, 400 Maryland Avenue, SW., Room 2053, FOB #6, Washington, DC 20202-6439, telephone (202) 732-4351.*

*Application instructions and forms:* The appendix to this application notice is divided into three parts. These parts are organized in the same manner that

the submitted application should be organized. The parts are as follows:

**Part I: Application for Federal Assistance (SF-424, Rev. 4/88) and instructions. Budget Information—Non-Construction Programs (SF-424A) and instructions.**

**Part II: Supplementary Program and Budgetary Instructions.**

**Part III: Assurances and Certifications.**

An applicant may reproduce the forms in the appendix and use them to submit the information required for this application. However, the application, assurances, and certification forms must each have an *original signature*. If an item requested cannot be answered or does not appear to be related or relevant to the assistance required, write "NA" for not applicable. No grant may be awarded unless a completed application form has been received.

*Program authority:* 20 U.S.C. 3041-3047.

*Dated:* September 6, 1988.

**Beryl Dorsett,**

*Assistant Secretary for Elementary and Secondary Education.*

**BILLING CODE 4000-01-M**

APPLICATION FOR  
FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		2. DATE SUBMITTED Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE State Application Identifier
				4. DATE RECEIVED BY FEDERAL AGENCY Federal Identifier
5. APPLICANT INFORMATION				
Legal Name		Organizational Unit		
Address (give city, county, state, and zip code)		Name and telephone number of the person to be contacted on matters involving this application (give area code)		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <span style="border: 1px solid black; padding: 2px 10px;">  </span> - <span style="border: 1px solid black; padding: 2px 10px;">  </span> <span style="border: 1px solid black; padding: 2px 10px;">  </span> <span style="border: 1px solid black; padding: 2px 10px;">  </span> <span style="border: 1px solid black; padding: 2px 10px;">  </span> <span style="border: 1px solid black; padding: 2px 10px;">  </span>				
7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/> A. State      H. Independent School Dist. B. County      I. State Controlled Institution of Higher Learning C. Municipal      J. Private University D. Township      K. Indian Tribe E. Interstate      L. Individual F. Intermunicipal      M. Profit Organization G. Special District      N. Other (Specify) _____				
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es). <input type="checkbox"/> <input type="checkbox"/> A. Increase Award      B. Decrease Award      C. Increase Duration D. Decrease Duration      Other (specify): _____				
9. NAME OF FEDERAL AGENCY:				
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <span style="border: 1px solid black; padding: 2px 10px;">8</span> <span style="border: 1px solid black; padding: 2px 10px;">4</span> - <span style="border: 1px solid black; padding: 2px 10px;">0</span> <span style="border: 1px solid black; padding: 2px 10px;">8</span> <span style="border: 1px solid black; padding: 2px 10px;">3</span>		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: TITLE: Women's Educational Equity Act Program		
12. AREAS AFFECTED BY PROJECT (CITIES, COUNTIES, STATES, ETC.):				
13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF a. Applicant      b. Project		
Start Date	Ending Date			
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
f. Program Income	\$ <span style="border: 1px solid black; padding: 2px 10px;">00</span>	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes      If "Yes," attach an explanation <input type="checkbox"/> No		
g. TOTAL	\$ <span style="border: 1px solid black; padding: 2px 10px;">00</span>			
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED				
a. Typed Name of Authorized Representative		b. Title		c. Telephone number
d. Signature of Authorized Representative				e. Date Signed

Previous Editions Not Usable

Standard Form 124 (REV. 4-88)  
Prescribed by OMB Circular A-102

## INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1	Self-explanatory.	12	List only the largest political entities affected (e.g., State, counties, cities).
2	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).	13	Self-explanatory.
3	State use only (if applicable).	14	List the applicant's Congressional District and any District(s) affected by the program or project.
4	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.	15	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
5	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.	16	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
6	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	17	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
7	Enter the appropriate letter in the space provided.	18	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
8	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.		
9	Name of Federal agency from which assistance is being requested with this application.		
10	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		
11	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.		

**BUDGET INFORMATION — Non-Construction Programs**

SECTION A - BUDGET SUMMARY						New or Revised Budget	
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		Federal (e)	Non-Federal (f)	Total (g)	
		Federal (c)	Non-Federal (d)				
1.		\$	\$	\$	\$	\$	\$
2							
3.							
4.							
5. TOTALS		\$	\$	\$	\$	\$	\$

SECTION B - BUDGET CATEGORIES						Total (5)	
GRANT PROGRAM, FUNCTION OR ACTIVITY						(4)	(5)
(1)	(2)	(3)	(4)	(5)			
6. Object Class Categories							
a. Personnel	\$	\$	\$	\$	\$		
b. Fringe Benefits							
c. Travel							
d. Equipment							
e. Supplies							
f. Contractual							
g. Construction							
h. Other							
i. Total Direct Charges (sum of 6a - 6h)							
j. Indirect Charges							
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$	\$
l. Program Income	\$	\$	\$	\$	\$	\$	\$

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Standard Form 424A (4-88)  
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8.	\$	\$	\$	\$	\$
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$	\$

## SECTION D - FORECASTED CASH NEEDS

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$
14. NonFederal				
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$

## SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

## SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:  
22. Indirect Charges:  
23. Remarks

## INSTRUCTIONS FOR THE SF-424A

### General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

### Section A. Budget Summary

#### Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

#### Lines 1-4, Columns (c) through (g.)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

#### Lines 1-4, Columns (c) through (g.) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes to existing grants*, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

**Line 5** — Show the totals for all columns used.

### Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

**Lines 6a-i** — Show the totals of Lines 6a to 6h in each column.

**Line 6j** — Show the amount of indirect cost.

**Line 6k** — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

**INSTRUCTIONS FOR THE SF-424A (continued)**

**Line 7** – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

**Section C. Non-Federal Resources**

**Lines 8-11** – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

**Column (a)** – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

**Column (b)** – Enter the contribution to be made by the applicant.

**Column (c)** – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

**Column (d)** – Enter the amount of cash and in-kind contributions to be made from all other sources.

**Column (e)** – Enter totals of Columns (b), (c), and (d).

**Line 12** – Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

**Section D. Forecasted Cash Needs**

**Line 13** – Enter the amount of cash needed by quarter from the grantor agency during the first year.

**Line 14** – Enter the amount of cash from all other sources needed by quarter during the first year.

**Line 15** – Enter the totals of amounts on Lines 13 and 14.

**Section E. Budget Estimates of Federal Funds Needed for Balance of the Project**

**Lines 16 - 19** – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

**Line 20** – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

**Section F. Other Budget Information**

**Line 21** – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

**Line 22** – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

**Line 23** – Provide any other explanations or comments deemed necessary.

**Part II—Supplementary Program and Budgetary Instructions**

*A. Program Narrative*

Narrative is limited to no more than 25 pages. For all new grant programs, prepare the program narrative in accordance with the application requirements and criteria set forth in this notice.

*B. Geographic Location*

Give a precise location of the project or area to be served by the proposed project. Maps or other graphic aids may be attached.

*C. Budget Information*

**1. Budget Summary (SF 424A—Section B)**

Lines a-h. Show the estimated amount for each direct cost budget (object class) category.

Line a. Personnel must show salaries and wages only. Fees and expenses for consultants must be included on line h.

Line b. Leave this line blank if fringe benefits applicable to direct salaries and wages are treated as part of the indirect cost rate.

Line c. Indicate out-of-state travel for employees only. Travel of consultants, trainees, etc., should not go on this line, nor should local transportation (i.e., where no out-of-state trip is involved).

Line d. Indicate the cost of nonexpendable personal property. Such property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. An applicant may use its own definition of nonexpendable personal property provided that such

definition would at least include all tangible personal property as defined above.

Line e. Show all tangible personal property except that which is on Line d.

Line f. Use for procurement contracts (except those that relate to other line items such as equipment and supplies). Line f must not include payments to individuals such as stipends and allowances for trainees, consulting fees, benefits, etc.

Line g. New construction is not an authorized expenditure under this program.

Line h. All direct cost not clearly covered by Lines a through g must be included here. Examples are computer use charges, non-salary and wage payments to individuals (stipends, dependency allowances and trainee travel costs), tuition, space or equipment rental, local transportation, consulting fees and travel, communication and reproduction costs.

Line i. Show the total of lines a, b, c, e, f, and h. Do not include line d—equipment in this calculation.

Line j. Show the amount of indirect cost. Refer to OMB Circular No. A-87.

Line k. Enter the total of Lines i and j.

**2. Budget Narrative:** Provide an explanation for each individual direct object cost category explaining the following details: Personnel Salaries from Line a. Include a statement which shows the total commitment of time and the total salary to be charged to the project for each key member of the project staff cited in the program narrative.

Fringe Benefits from line b. Include information which shows the amount of

fringe benefits assigned to retirement, workmen's compensation, insurance, etc., as applicable.

Travel from Line c. Foreign travel should be separately identified and justified. No foreign travel will be authorized under the grant unless prior approval is obtained.

Equipment from Line d. List items of equipment in the following format. Item, Number of Units, Cost per Unit, Total Cost.

Contractual from Line f. Indicate the name of the agency or organization that will receive each proposed contract. This should be supported by the program narrative in Part II A.

Other from Line h. (a) Give the total number of consultants that will work on the project and their costs (fees and travel). (b) For training programs or such functions or activities also give: (1) Costs for stipends in terms of number of weeks times number of trainees (by degree level) times average stipend; (2) Costs for dependency allowances, number of weeks times number of dependents times weekly allowances for each dependent; and (3) Costs of travel for trainees, number of trainees for whom travel allowances are requested times the average round-trip fare claimed per student.

Indicate the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Provide any other explanations required herein or any other comments deemed necessary.

BILLING CODE 4000-01-M

## PRIORITY SELECTION SHEET

Submit the original and two copies with your application. Identify the priority under which you are submitting an application by marking the appropriate box.

745.24 Priority for model projects on educational equity for racial and ethnic minority women and girls.

745.20 Other authorized activities.

Identify the type of grant for which you are applying by marking the appropriate box.

General Grant

Challenge Grant

Please be sure to mark one box in each pair of boxes.

Title of Application

BILLING CODE 4000-01-C

**Application Requirement Reminders**

1. Applications must be sent or delivered to the Application Control Center (ACC), not to the WEEA Program. Interpretation of the closing date is made by the Application Control Center which will rigorously enforce the closing date. Please be on time!

2. The application form specifies that the *original, signed application and two copies* must be submitted to ACC.

3. Remember to mark the priority selection sheet and submit the original and two copies with the application. The priority selection sheet should be the

first page of the application, followed by the cover sheet entitled "Federal Assistance." Complete a separate priority selection sheet for each application submitted. You are reminded that applicants are prohibited from submitting an application under the selected priority and also submitting the same application under other authorized activities.

4. Remember to include Part III—Assurances and Certifications—with the application.

5. Nonprofit organizations should include evidence of their nonprofit status.

6. The following suggestions are offered to facilitate processing, filing and circulation of applications:

(a) Try to avoid using notebooks, binders or cumbersome covers for applications. You will save money by not using them, and we will save the time required to remove them.

(b) Please use letter size paper (8 x 10½ or 8½ x 11)

(c) Limit narrative to a maximum of 25 pages. Kindly number all pages in the applications.

BILLING CODE 4000-01-M

## ASSURANCES — NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
7. (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
8. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
9. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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**Certification Regarding  
Debarment, Suspension, and Other Responsibility Matters  
Primary Covered Transactions**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202, telephone (202) 732-2505.

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name And Title Of Authorized Representative

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Signature

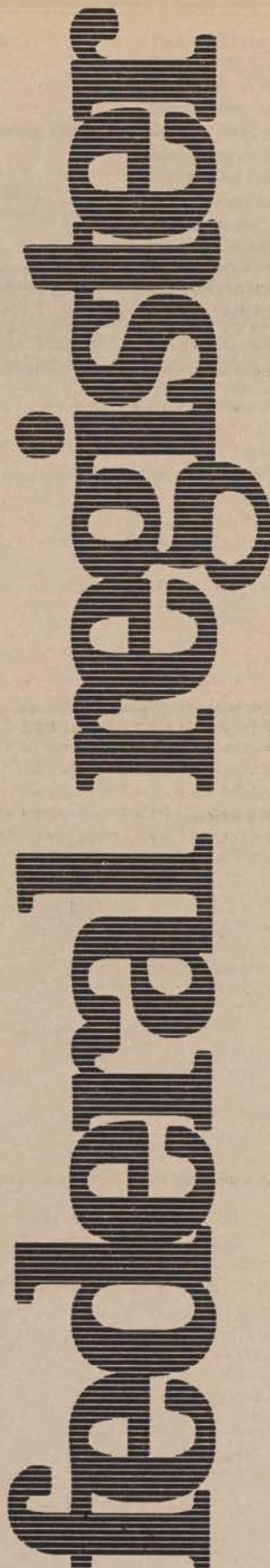
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Date

## Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.





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Monday  
September 12, 1988

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**Part IV**

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**Department of  
Energy**

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**48 CFR Part 927**

**Acquisition Regulation, Patent, Data and  
Copyright; Cancellation of Public Hearing**

Monetary  
Geopolitical 2008

Part 1A

# Desertuage of EnelDA

VA CERT Part 253

Corporate Governance of Public Listed  
Yodinillion Redundant, Berlin, Germany

**DEPARTMENT OF ENERGY****48 CFR Part 927****Acquisition Regulation, Patent, Data and Copyright****AGENCY:** Department of Energy.**ACTION:** Notice of cancellation of public hearing.**SUMMARY:** On August 5, 1988, the Department of Energy published in the **Federal Register** a proposed amendment with request for comment regarding 48 CFR Part 927, Acquisition Regulation,

Patent, Data and Copyrights (53 FR 29494). That notice provided for a Public Hearing on the matter to be held on September 14, 1988, and provided further that requests to present oral statements thereon must be received no later than August 29, 1988.

Since no requests to present oral statements thereon have been received by the Department, the Public Hearing on the matter scheduled for September 14, 1988 is cancelled.

**DATES:** Written comments on the proposed amendment are due no later than September 23, 1988, in accordance

with the aforesaid proposed amendment with request for comment.

**FOR FURTHER INFORMATION CONTACT:**

Robert M. Webb, Department of Energy Procurement and Assistance Management, Office of Policy, MA-421, Washington, DC 20585; Telephone: (202) 586-8247.

Berton J. Roth,

*Director, Procurement and Assistance Management Directorate.*

[FR Doc. 88-20872 Filed 9-9-88; 11:34 am]

BILLING CODE 6450-01-M



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**LIST OF PUBLIC LAWS**

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Last List August 30, 1988

## CFR CHECKLIST

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1, 2 (2 Reserved)	\$10.00	Jan. 1, 1988
3 (1987 Compilation and Parts 100 and 101)	11.00	<sup>1</sup> Jan. 1, 1988
4	14.00	Jan. 1, 1988

## 5 Parts:

1-699	14.00	Jan. 1, 1988
700-1199	15.00	Jan. 1, 1988
1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988

## 7 Parts:

0-26	15.00	Jan. 1, 1988
27-45	11.00	Jan. 1, 1988
46-51	16.00	Jan. 1, 1988
52	23.00	Jan. 1, 1988
53-209	18.00	Jan. 1, 1988
210-299	22.00	Jan. 1, 1988
300-399	11.00	Jan. 1, 1988
400-699	17.00	Jan. 1, 1988
700-899	22.00	Jan. 1, 1988
900-999	26.00	Jan. 1, 1988
1000-1059	15.00	Jan. 1, 1988
1060-1119	12.00	Jan. 1, 1988
1120-1199	11.00	Jan. 1, 1988
1200-1499	17.00	Jan. 1, 1988
1500-1899	9.50	Jan. 1, 1988
1900-1939	11.00	Jan. 1, 1988
1940-1949	21.00	Jan. 1, 1988
1950-1999	18.00	Jan. 1, 1988
2000-End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988

## 9 Parts:

1-199	19.00	Jan. 1, 1988
200-End	17.00	Jan. 1, 1988

## 10 Parts:

0-50	18.00	Jan. 1, 1988
51-199	14.00	Jan. 1, 1988
200-399	13.00	<sup>2</sup> Jan. 1, 1987
400-499	13.00	Jan. 1, 1988
500-End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988

## 12 Parts:

1-199	11.00	Jan. 1, 1988
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220-299	14.00	Jan. 1, 1988
300-499	13.00	Jan. 1, 1988
500-599	18.00	Jan. 1, 1988
600-End	12.00	Jan. 1, 1988
13	20.00	Jan. 1, 1988

## 14 Parts:

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60-139	19.00	Jan. 1, 1988

Title	Price	Revision Date
140-199	9.50	Jan. 1, 1988
200-1199	20.00	Jan. 1, 1988
1200-End	12.00	Jan. 1, 1988
<b>15 Parts:</b>		
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300-399	20.00	Jan. 1, 1988
400-End	14.00	Jan. 1, 1988
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150-999	13.00	Jan. 1, 1988
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500-599	20.00	Apr. 1, 1988
600-799	7.50	Apr. 1, 1988
800-1299	16.00	Apr. 1, 1988
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300-End	13.00	Apr. 1, 1988
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200-499	26.00	Apr. 1, 1988
500-699	9.50	Apr. 1, 1988
700-1699	19.00	Apr. 1, 1988
1700-End	15.00	Apr. 1, 1988
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600-End	6.00	<sup>3</sup> Apr. 1, 1980
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200-End	13.00	Apr. 1, 1988
28	23.00	July 1, 1987

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100-499	7.00	July 1, 1987	61-399	5.50	Oct. 1, 1987
500-899	24.00	July 1, 1987	400-429	21.00	Oct. 1, 1987
900-1899	10.00	July 1, 1987	430-End	14.00	Oct. 1, 1987
1900-1910	28.00	July 1, 1987	<b>43 Parts:</b>		
1911-1925	8.50	July 1, 1988	1-999	15.00	Oct. 1, 1987
1926	10.00	July 1, 1987	1000-3999	24.00	Oct. 1, 1987
1927-End	23.00	July 1, 1987	4000-End	11.00	Oct. 1, 1987
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400-End	23.00	July 1, 1987	1 (Parts 1-51)	26.00	Oct. 1, 1987
35	9.00	July 1, 1987	1 (Parts 52-99)	16.00	Oct. 1, 1987
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1-199	12.00	July 1, 1987	2 (Parts 252-299)	15.00	Oct. 1, 1987
*200-End	20.00	July 1, 1988	3-6	17.00	Oct. 1, 1987
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39	13.00	July 1, 1987	100-177	25.00	Oct. 1, 1987
<b>40 Parts:</b>			178-199	19.00	Oct. 1, 1987
1-51	21.00	July 1, 1987	200-399	17.00	Oct. 1, 1987
52	26.00	July 1, 1987	400-999	22.00	Oct. 1, 1987
53-60	24.00	July 1, 1987	1000-1199	17.00	Oct. 1, 1987
61-80	12.00	July 1, 1987	1200-End	18.00	Oct. 1, 1987
81-99	25.00	July 1, 1987	<b>50 Parts:</b>		
100-149	23.00	July 1, 1987	1-199	16.00	Oct. 1, 1987
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190-399	29.00	July 1, 1987	600-End	14.00	Oct. 1, 1987
400-424	22.00	July 1, 1987	<b>CFR Index and Findings Aids:</b>		
425-699	21.00	July 1, 1987	Complete 1988 CFR set	595.00	1988
700-End	27.00	July 1, 1987	<b>Microfiche CFR Edition:</b>		
<b>41 Chapters:</b>			Complete set (one-time mailing)	125.00	1984
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19-100	13.00	<sup>6</sup> July 1, 1984			
1-100	10.00	<sup>6</sup> July 1, 1987			
101	23.00	July 1, 1987			
*102-200	12.00	July 1, 1988			
201-End	8.50	July 1, 1987			

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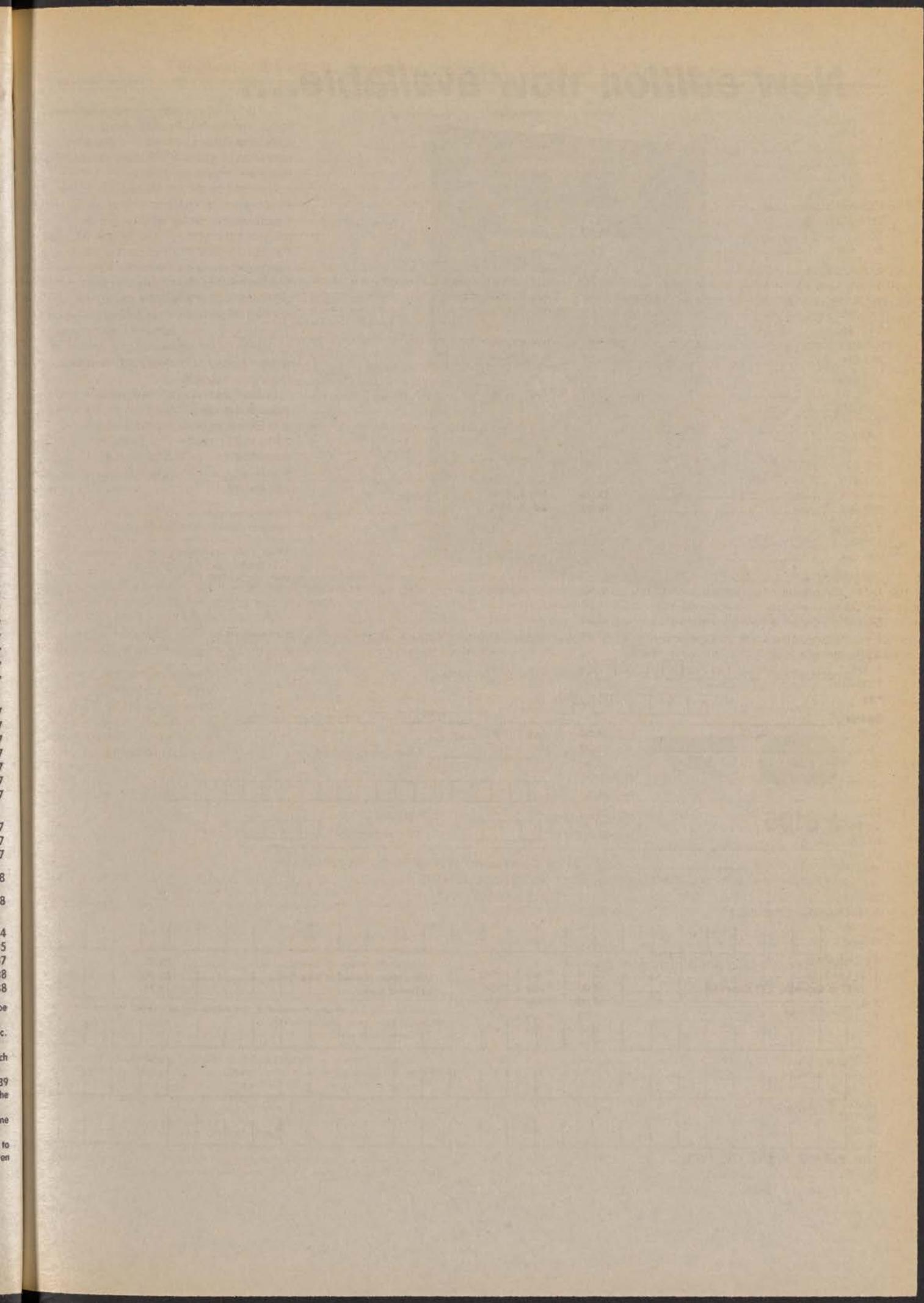
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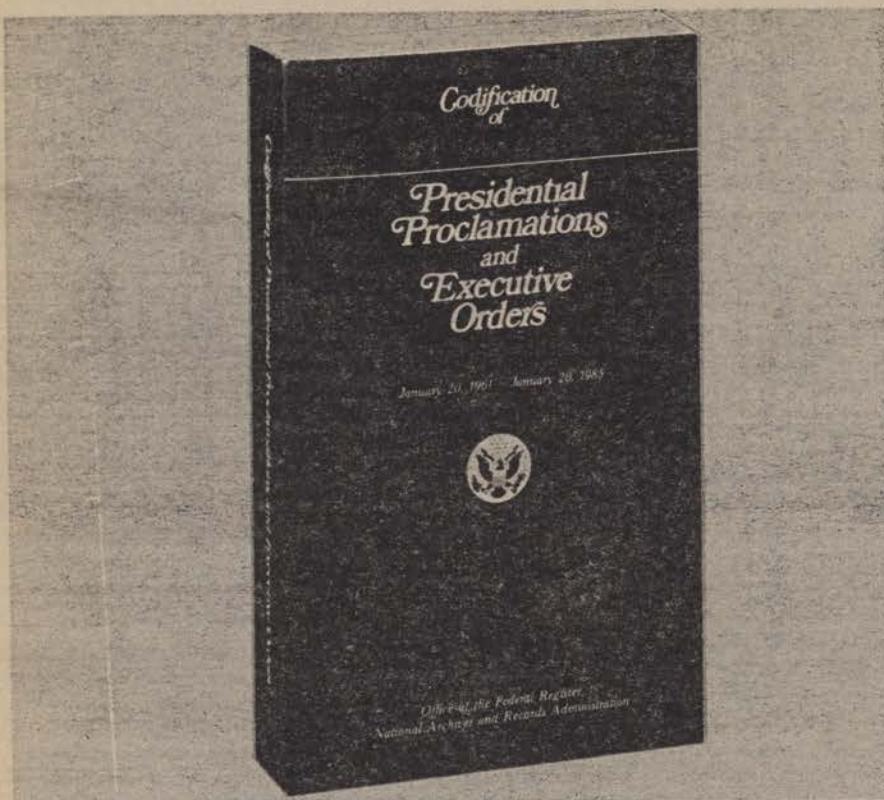
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