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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 2 and 15

Complaints Alleging Discrimination in Direct USDA Programs and Activities; and Related Delegations

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: The United States Department of Agriculture is revising (1) its regulation relating to the filing of complaints alleging discrimination in direct USDA programs and activities under 7 CFR Part 15, Subpart B, and (2) the delegations of authority from the Secretary and general officers in this area.

This final rule amends the regulation to extend the filing period for complaints alleging discrimination and authorizes expressly the Office of Advocacy and Enterprise to investigate and make determinations on complaints. The amendment affords the public a greater opportunity to prepare and document complaints and clarifies for the public and agencies the delegation of authority.

EFFECTIVE DATE: August 28, 1989.

FOR FURTHER INFORMATION CONTACT: M. Farook Sait, Chief, Complaints and Adjudication Division, Equal Opportunity, Office of Advocacy and Enterprise, United States Department of Agriculture, Washington, DC 20250. Phone (202) 447–7327.

SUPPLEMENTARY INFORMATION: This document amends the regulation contained in 7 CFR 15.52 to extend the filing period allowed for such complaints and to authorize expressly the Office of Advocacy and Enterprise to investigate and make determinations as to such discrimination complaints. The extended filing period parallels the period for filing complaints under Title VI of the Civil Rights Act of 1964, as amended. The Department has determined that public interest requires that the public be afforded a greater opportunity than under the present regulations to prepare and document its complaints. In addition, the delegations of authority to the Assistant Secretary for Administration and the Director, Office of Advocacy and Enterprise in 7 CFR Part 2 are being revised to clarify the delegation of this authority.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective less than 30 days after publication in the **Federal Register.** However, since this regulation involves a complaint process under which a complaint of handicap discrimination in a Federally conducted program may be filed, copies of this regulation have been submitted to the appropriate authorizing committees of the Congress, as a proposed regulation would have been pursuant to section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the effective date has been delayed for 30 days.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. No. 96–354, the Regulatory Flexibility Act, and therefore is exempt from the provisions of that Act.

List of Subjects

7 CFR Part 2

Authority delegations (Government agencies).

7 CFR Part 15.

Civil rights, Nondiscrimination

Accordingly, Parts 2 and 15, Title 7, Code of Federal Regulations are amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by revising paragraph (h)(12) to read as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(h) * * *

(12) Make determinations that program complaint investigations performed under Section 15.6 of this subtitle establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate; and perform investigations and make determinations, on both the merits and required corrective action, as to complaints filed under Subpart B of Part 15 of this title.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.80 is amended by revising paragraph (a)(12) to read as follows:

§ 2.80 Director, Office of Advocacy and Enterprise.

(a) * * *

(12) Make determinations that program complaint investigations performed under section 15.6 of this subtitle establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate; and perform investigations and make determinations, on both the merits and required corrective action, as to complaints filed under Subpart B of Part 15 of this title.

* * * * *

PART 15—NONDISCRIMINATION

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

4. The authority for 7 CFR Part 15, Subpart B, is revised to read as follows:

Authority: 5 U.S.C. 301; 29 U.S.C. 794.

5. Section 15.52 is revised to read as follows:

§ 15.52 Complaints.

(a) Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this subpart may by himself or by an authorized representative file a written complaint based on the ground of such discrimination. No particular form of complaint shall be required. The complaint must be filed within 180 days from the date the person knew or should have known of the alleged discrimination unless the Director, Office of Advocacy and Enterprise, extends the time for filing for good cause. Any person who complains of discrimination under this subpart shall be advised of his rights to file a complaint as herein provided. Each agency of the Department dealing with the public shall post in conspicuous places in its offices and other facilities notice of the right to file a complaint under this subpart.

(b) All complaints under this subpart must be filed with the Office of Advocacy and Enterprise, which will investigate the complaints. The Director, Office of Advocacy and Enterprise, will make determinations as to the merits of complaints under this subpart and as to corrective actions required to resolve the complaints.

For Part 2, Subpart C and Part 15, Subpart B:

Clayton Yeutter,

Secretary of Agriculture.

For Part 2, Subpart J:

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 89-17063 Filed 7-26-89; 8:45 am]

BILLING CODE 3410-04-M

Animal and Plant Health Inspection Service

[Docket No. 88-178]

9 CFR Part 77

Tuberculosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the tuberculosis regulations by removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing certain references to "Veterinary Services" and replacing them with references to "Animal and Plant Health Inspection Service." These changes are warranted so the regulations will accurately reflect that the Administrator of the agency holds the primary authority and responsibility for various decisions under the regulations.

EFFECTIVE DATE: July 27, 1989.

FOR FURTHER INFORMATION CONTACT: Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-36-8682.

SUPPLEMENTARY INFORMATION: Tuberculosis is a contagious, infectious, and communicable disease affecting cattle, bison, and other species, including humans. Tuberculosis in affected animals causes weight loss and general debilitation. The regulations in 9 CFR Part 77 (referred to below as the regulations) contain restrictions on the interstate movement of cattle and bison because of tuberculosis. Prior to the effective date of this document, these regulations indicated that the Deputy Administrator of the Animal and Plant Health Inspection Service (APHIS) for Veterinary Services was the official responsible for various decisions under these regulations. We are revising 9 CFR Part 77 to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are making similar revisions in all other APHIS regulations. These revisions will be published in separate **Federal Register** documents.

To clarify the regulations with respect to the Administrator's authority and responsibility, we are making nonsubstantive changes in the regulations. We are removing all references to "Deputy Administration" and replacing them with references to "Administrator," and removing references to "Veterinary Services" and replacing them with references to "Animal and Plant Health Inspection Service." We are also adding definitions of "Administrator," "Animal and Plant Health Inspection Service," and "APHIS representative" and deleting the definitions of "Deputy Administrator," "Veterinary Services," and "Veterinary Services representative." In addition, we are inserting the definition of "Accredited veterinarian" from 9 CFR 160.1 instead of referring to that section to make it consistent with other parts contained in 9 CFR. Further, we are revising the reference to the Program Planning Staff of Veterinary Services in footnote 1 because of the recent reorganization of APHIS.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. Law 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

These programs/activities under 9 CFR Part 77 are listed in the Catalog of Federal Domestic Assistance under No. 10.025 and are subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 77

Animal diseases, Cattle, Transportation.

Accordingly, we are amending 9 CFR Part 77 as follows:

PART 77—TUBERCULOSIS

1. The authority citation for Part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, the definitions of "Deputy Administrator", "Veterinary Services", and "Veterinary Services representative" are removed and the definition of "Accredited veterinarian" is revised to read as follows:

* * * * *

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of Part 161 of this title to perform functions specified in Parts 1, 2, 3, and 11 of Subchapter A, and Subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

* * * * *

3. In § 77.1, definitions of "Administrator", "Animal and Plant Health Inspection Service", and "APHIS representative" are added, in alphabetical order, to read as follows:

* * * * *

Administrator. The Administrator, Animal and Plant Health Inspection

Service, or any person authorized to act for the Administrator.

* * * * *

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

* * * * *

4. In § 77.1, the definition of "Accredited-free state", paragraph (1)(ii), remove the words "Veterinary Services" in the first and second sentences and add "APHIS" in their place.

5. In addition to the amendments set forth above, in 9 CFR Part 77, remove the words "Veterinary Services" and add, in their place, the word "APHIS" in the following places:

(a) Section 77.1, definition of "Modified accredited state", paragraph (1)(ii), first and second sentences.

(b) Section 77.1, definition, of "Official seal".

(c) Section 77.1, definition of "Uniform Methods and Rules—Bovine Tuberculosis Eradication".

6. In § 77.1, footnote 1 is revised to read as follows:

[1] Copies may be obtained from the Animal Health and Depredation Management Systems Staff, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Hyattsville, MD 20782.

§§ 77.1, 77.4, and 77.5 [Amended]

7. In addition to the amendments set forth above, in 9 CFR Part 77, remove the words "a Veterinary Services" and add, in their place, the words "an APHIS" in the following places:

(a) Section 77.1, definition of "Certificate";

(b) Section 77.1, definition of "Permit";

(c) Section 77.4(a);

(d) Section 77.5, paragraph (a)(1), the first and second sentences of paragraph (a)(5), and paragraph (b)(1).

§§ 77.5 and 77.6 [Amended]

8. In addition to the amendments set forth above, in 9 CFR Part 77, remove the word "Deputy" in the following places:

(a) Section 77.5, paragraphs (a)(5) and (b)(1); and

(b) Section 77.6, first and second sentences.

Done at Washington, DC this 24th day of July, 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-17573 Filed 7-26-89; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Charter-Related Activities

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final rule and final Interpretive Ruling and Policy Statement 89-1—Chartering and Field of Membership Policy (IRPS 89-1).

SUMMARY: The NCUA Board has undertaken a full reexamination of the policies and procedures under which a Federal credit union may obtain and modify its charter. The NCUA issued a proposed IRPS in March of this year to address the entire range of chartering and field of membership activities—new charters, field of membership additions, name changes, mergers and spin-offs, and charter conversions. The proposed IRPS, with minor modification, is now made final and replaces IRPS 84-1 entitled "Membership in Federal Credit Unions," the 1980 NCUA manual entitled "Chartering and Organizing Manual for Federal Credit Unions," the 1985 NCUA pamphlet entitled "Chartering & Organizing of Federal Credit Unions," the NCUA Board's decisions on chartering issues made in November 1988, and all other previous NCUA statements on these matters. IRPS 89-1 will be incorporated into a manual which will include a preface, introduction, glossary, sample forms, and a revised list of type of membership codes. The NCUA will publish the manual and distribute it to credit unions in the fall of 1989.

The NCUA is also issuing a final rule to update § 701.1 of its Rules and Regulations entitled "Organizing a Federal credit union" so that it references and incorporates IRPS 89-1 into the regulations.

EFFECTIVE DATE: August 28, 1989.

FOR FURTHER INFORMATION CONTACT: H. Allen Carver, Regional Director, Region IV, (Chicago), 300 Park Blvd., Suite #155, Itasca, Illinois 60143, or telephone: (312) 250-6000.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1989, the NCUA Board published a proposed Interpretive Ruling and Policy Statement (IRPS) on chartering and field of membership policies and a proposed rule referencing the IRPS. (*See* 54 FR 1221.) The proposal was issued with a sixty day comment period that was extended by the NCUA Board for thirty additional days due to public request. The proposed IRPS generally prescribed existing policies and procedures as set forth in previous publications or as practiced by NCUA staff. Changes in policy were highlighted in the supplementary information section to the IRPS. The IRPS is composed of three chapters titled as follows: 1—Federal Credit Union Chartering; 2—Changes in Field of Membership; and 3—Charter Conversions.

Commenters

Forty-two public comment letters were received. Comments were received from four national credit union trade associations, five state credit union leagues, nineteen federally-chartered credit unions, three state-chartered credit unions, one bank, six banking trade associations, and four individuals.

No specific comments were made on Chapter 3—Conversions. The Board has made a few minor changes to Chapter 3. They are discussed at the end of the Suplementary Information section.

A clarification has been made in several places in the IRPS. The NCUA's goal of making credit union service available to "all those who wish to have it" has been changed to "all eligible groups who wish to have it" to clarify that groups must meet field of membership requirements in order to qualify for credit union service. Minor word changes and grammatical corrections made throughout the IRPS are not discussed.

The comments were, for the most part, favorable and were made on existing policy, rather than the few proposed policy changes set forth in the proposed IRPS. All comments on proposed policy changes are specifically noted. Specific issues addressed in the comment letters and changes made to the IRPS are discussed below.

Issues Raised

A number of commenters raised concerns about how NCUA would define "operating satisfactorily." This is a factor cited in Chapter 2 under the heading "Reviewing Field of Membership Addition Requests" as a general prerequisite for Federal credit unions (FCU's) to receive favorable

consideration of field of membership amendment requests. The intent of the IRPS in using this terminology was to give the Regional Directors sufficient latitude to deal with a variety of circumstances. However, in Chapter 2 under the headings "Select Group Additions" and "Reviewing Field of Membership Requests" there is some explanation of the factors to be considered in making this judgment. The discussion under these headings states that among the criteria to be considered are the applicant credit union's current financial condition and CAMEL rating. Among the comments received were four which recognized NCUA's need for flexibility in making this evaluation and the inappropriateness of specific negating standards. For instance, if the IRPS was to indicate that *no* FCU's with CAMEL ratings of 3, 4 or 5 would be considered fovorably, then a number of FCU's which either are in an improving status or which have problems (such as a declining field of membership) which may best be dealt with by field of membership expansions would automatically be excluded from favorable consideration. The Board has therefore determined not to specifically define "operating satisfactorily."

Another generally-defined concept which drew comments was the "convincing support" required by groups with fewer than 500 potential members which are seeking a Federal credit union charter. The NCUA Board maintains that the economic advisability requirements for a charter applicant cited in Chapter 1, II, C. give adequate definition to the terminology. Furthermore, more than half of the respondents who commented on this issue either agreed with the appropriateness of this language or asked that the Board be even more stringent in establishing and enforcing minimum potential member requirements. Since this is an issue (minimum potential member requirements for new charter applicants) which has been previously considered on two occasions by the NCUA Board and for the above noted reasons, no further review is necessary and no change in the IRPS is appropriate.

In a related vein, several commenters expressed concerns about the requirement placed on new charter applicants to conduct potential membership surveys. This requirement is set forth in Chapter 1, II, C.—"Economic Advisability." A minimum of 250 potential members must be included in the survey sample regardless of the new group's total potential membership. This specific requirement is a new one. Generally, 500 potential members are required for the FCU to have the minimum required economic advisability. The fact that this issue was questioned by only two commenters combined with the need for "convincing support" by applicants with fewer than 500 potential members as expressed above suggests that the policy is reasonable.

Another issue which drew comments was whether a business plan should be required from FCU's seeking significant field of membership expansions. The proposed IRPS stated that "the Regional Director may, at his discretion, after taking into account the significance of the field of membership expansion proposed, require the applicant to submit a business plan." (*See Chapter 2, "Reviewing Field of Membership Addition Requests."*) The commenters were evenly split on this issue. One of the commenters suggested that the NCUA board impose a requirement for a business plan in those instances where the expansion requested involves an addition in excess of 25% of the FCU's current membership. Such a modification could work to the NCUA's and FCU's detriment in a number of situations. For instance, if a large FCU serving 100,000 members asks to add a group with a potential membership of 20,000, it may be unnecessary to require a business plan. On the other hand, it may be necessary for a small FCU serving 200 members to submit a business plan in order to add a select group with as few as 50 potential members. The NCUA Board maintains that flexibility in this area is advisable and therefore makes no change to the IRPS.

Several respondents commented on the proper channelling of appeals of decisions by Regional Directors. Chapter 1, X "Appeals" and Chapter 2 "Reviewing Field of Membership Requests" state that appeals to the NCUA Board should be submitted through the appropriate Regional Director. The majority of the commenters indicated that the appeals should go directly to the NCUA Board, instead of to the Regional Director whose decision is being appealed. The existing system for processing appeals was not established and is not changed by this IRPS. It has been in place for some time to accommodate appeals of all types of Regional Director decisions. This IRPS is not the vehicle to accomplish a change in the appeal process. Appeals are not handled by the Regional Offices. They are forwarded by the Region to NCUA's Central Office and are investigated and presented to the NCUA Board by staff who are objective and have had no previous involvement in the case.

Service status reports (defined in the IRPS at the end of Chapter 2) as a written summary of the result of FCU efforts to bring service to members of select groups added) were questioned by a number of commenters. Some of these commenters, including several who supported the concept in general, asked that the IRPS clearly state the purpose of the reports, the specific information to be accumulated, and the intervals at which the reports are to be submitted. The IRPS does indicate the fundamental purposes of the service status reports. In addition to assisting credit union management in assessing marketing needs and successes, the reports provide the NCUA with information to evaluate the extent to which an applicant FCU is serving its current potential membership. As far as the specific information to be reported and the intervals at which the reports are to be submitted, those determinations are best left to the respective Regional Directors based on the circumstances involved in each case. Hence, no change is made in this area.

Community chartering and field of membership policies received a variety of comments. First, a number of commenters were concerned about the policy change deleting select group additions for community FCU's. (*See* Chapter 2 "Community FCU Field of Membership Expansions" and discussion in Supplementary Information section of proposed IRPS.) The Board maintains that the elimination of this alternative for community charters is appropriate. In order for a community credit union to expand its field of membership, it must provide evidence that the extended area of service posseses all of the characteristics of a well-defined community. Upon presentation of such evidence, and satisfaction of all other appropriate criteria, the community charter's boundaries will be modified and its area of service will be enlarged. The intent of IRPS 84–1, which first provided community charters access to select groups was to allow community charters to add such groups outside the described community boundaries, but only after the area outside the boundaries had been shown by applicant FCU to represent a natural extension of the original community. The Board believes that community chartering policy should be to encourage service to all of those within the

community boundaries and therefore makes no change to the IRPS.

A related question raised by several commenters is what happens to select groups located outside of a community charter's specified boundaries which were added to a community charter's field of membership during the past five years. These groups would continue to have membership eligibility from the community FCU. They would continue to be specifically named in the community FCU's field of membership.

A number of respondents questioned whether partnerships, corporations, and other legal entities ("non-natural persons") could be included in the field of membership of community-chartered FCU's without being specifically listed in Section 5 of the charter. These non-natural persons are legal entities which are located within the boundaries of community charters. One commenter pointed out that Part 705 of the NCUA Rules & Regulations formerly included discussion about this topic and provided specific wording for use in community charter field of memberships. In addition, many community charters have assumed that these non-natural persons qualify for membership under the general clause "organizations of such persons." The NCUA Board is persuaded that a clarification is necessary. Hence, a change in the IRPS is appropriate. Chapter 1, Section II, subsection 3, has been modified accordingly. Also, the community field of membership examples have been modified to show that business and other entities within the service area can become members without being specifically listed in the charter.

The topic of overlaps (*see* Chapter 1, II, C, 2.) received the attention of a number of commenters. Most commenters agreed with the approach to overlaps expressed in the IRPS. The remarks about overlaps from a credit union trade association commenter are particularly noteworthy. The commenter indicates that procedures to deal with material and potentially troublesome overlaps have been addressed by NCUA but similar procedures have not been forthcoming from state regulators' offices. The commenter encourages NCUA to develop agreements with each of the state regulators which will facilitate to two-way flow of information regarding overlaps or potential overlaps that are consistent with the dual chartering policy. The Board believes that its overlap policy as set forth in the IRPS is appropriate. However, NCUA continues to pursue such agreements with state regulators.

The policy of granting cross-regional associational charters and field of membership expansions (*see* Chapter 1, IV—"Widely-Dispersed Associated Charters") drew a number of comments. Most of the commenters agreed with the position taken in the IRPS which mandates that affected Regional Directors vote on such expansions and charters. Several commenters indicated complete opposition to such charters/expansions and asked for a total prohibition of such groups. Two other commenters indicated that the policy is an overreaction to the granting of a few charters. The NCUA Board continues to believe that this policy, adopted last year, is reasonable and appropriate and that it should be left intact. A clarification that this policy applies to expansions is made to Chapter 2 at the end of the Section entitled "Select Group Additions."

Several commenters recommended that the term "expansion" be deleted from Chapter 2 of the IRPS and that some other similar term such as "adjustment," "change," "addition," or "amendment" be substituted therefore. The term "expansion" was eliminated where possible prior to the publication of the proposed IRPS. Accordingly, no further substitutions/changes have been made.

The retiree/senior citizens policy received several comments. This policy is set forth in Chapter 2—"Addition of Retiree or Senior Citizen Associations" and has been NCUA policy since 1984. All credit union comments were supportive of the policy. Letters from four bankers' associations opposed the policy. This policy is not new and is generally considered to be noncontroversial. Hence, no change is made.

The issue of background/credit checks for prospective officials/employees of new FCU's received unanimously favorable comments. This is addressed in Chapter 1, II, C, 1, b—"Proposed Management's Character and Fitness." One commenter suggested that some type of safeguards be added to prevent "straw man" officials from circumventing the policy's purpose. Although the Board recognizes this concern as genuine, we believe that the commitment to serve document that each prospective official must sign is a reasonable counterbalance. No threats/punitive actions would be appropriate since the Board does not wish to discourage persons from serving in these largely volunteer capacities. Therefore, no changes are made.

Several comments were received about the section in Chapter 1 entitled "Appropriateness of Proposed Federal Credit Union Name." (*See* Chapter 1, III.) These limits on the naming of FCU's are longstanding NCUA policy. However, this is the first time they have been set forth in an IRPS. Although the commenters were generally in agreement with the discussion in the proposed IRPS, one commenter wanted the list of inappropriate names expanded to include names used by other financial institutions and by the U.S. Government. There is in existence a criminal statute prohibiting misuse of titles of federally-insured institutions. Since it is required that the last three words of every Federal credit union's name must be "Federal Credit Union," no modification to this section is necessary.

The issue of emergency mergers/purchase and assumptions received a number of comments. (*See* Chapter 2 section entitled "Additions Via Mergers and Purchase and Assumptions.") The credit union commenters supported the policy in the proposed IRPS, the bankers' associations were opposed. The bankers' associations claimed generally that the policy results in dilution of the common bond. The Board maintains that the latitude permitted in this subsection of the IRPS is good public policy since it serves to reduce the exposure to loss by the National Credit Union Share Insurance Fund. Also, the consolidation of a troubled credit union's field of membership with an effectively-operated FCU does not create new credit union service. Existing eligibility for membership is simply transferred from one credit union to another. These are not new NCUA policies and the NCUA Board believes no change to them is necessary.

The requirement for new charter applicants to enter into a Letter of Understanding & Agreement (LUA) received several comments. This issue is discussed in Chapter 1, VIII entitled "LUA's." LUA's have been traditionally used with new charters. One commenter stated that it should be made clear to the officials of a new FCU that the terms and conditions in the LUA's may be modified. Accordingly, a change has been made to Exhibit B of the IRPS adding a seventh clause to the specimen LUA to read "As the credit union's officials gain experience and the credit union achieves target levels of growth and profitability, the above terms and conditions may be renegotiated by the two parties." Another commenter asked that NCUA specify the precise circumstances under which an LUA will be required. The IRPS states that LUA's will be required for most new charter applicants.

The policy on chambers of commerce and similar organization drew several

comments. The policy set forth in the proposed IRPS prohibiting inclusion of the employees of member of a chamber of commerce, or similar association, in a credit union's field of membership elicited several negative comments. The IRPS states that if an FCU wishes to serve the employees of a members of a chamber of commerce or similar professional organization (e.g., employees of member of a bar or medical association, employees of a franchisee), it must follow the procedures for field of membership expansion set forth in the select group expansion section. Although this may be considered a tightening of chartering and expansion policies, it does not eliminate the availability of credit union service to any group. Hence the Board makes no change to the proposed IRPS.

One commenter wanted the IRPS to assure new charter applicants that their proposed field of membership would be given consideration early on in the chartering process. Although the IRPS does not directly address this concern, there is a full discussion of what types of fields of membership are appropriate and inappropriate. Charter applicants should deal with field of membership issues up-front. The Regional Offices are prepared to answer any questions and settle any uncertainties pertaining to field of membership which the charter applicant is unable to resolve by reading the IRPS. Therefore, no change is made.

One commenter recommended that there be specific discussion and encouragement in the IRPS relating to FCU service to high school student groups. Chapter 1, II, A, 2 notes that student groups constitute an associational common bond. High school student groups do qualify as student groups. It should be noted that high school student groups may be added to an existing Federal credit union under the policy pertaining to select associational group expansions. Of course, all other select groups expansion requirements must be met.

Though no comments were received on charter conversions (Chapter 3), NCUA took a final look at the subject and found some additional ways to streamline and clarify the state-to-Federal charter conversion process. The three significant changes were: (1) Addition of specific reference to the need and timing for submitting Form NCUA 4000 (Federal Credit Union Investigation Report, Conversion of State Charter to Federal Charter); (2) deletion, as unnecessary, of the requirement to submit a Form NCUA 5300; and (3) addition of specific reference to the time when an NCUA on-site review will be conducted.

Comments were received recommending that the introduction or preface to be part of the manual incorporating the IRPS contain a thorough discussion of credit union uniqueness, philosophy, and the common bond. The introduction to the manual will contain such a discussion. Another commenter recommended that a "glossary" be added to furnish definitions of special terminology such as "select group" and "multiple group charter." The Board believes this recommendation is a good one, hence a glossary will be included as part of the manual.

Regulatory Procedures

Regulatory Flexibility Act

As was noted in the proposed IRPS, the NCUA Board has determined and certifies that changes to NCUA policy resulting from adoption of the IRPS will not have a significant economic impact on a substantial number of small credit unions (those under $1 million in asset size); changes are directed at clarification of existing policy rather than creation of new restrictions. Therefore, a regulatory flexibility analysis has not been performed.

Paperwork Reduction Act

This IRPS does contain several collection requirements. All of the collection requirements contained in the IRPS and NCUA forms which will be a part of the manual were submitted to the Office of Management and Budget (OMB) for approval in early June. We have not yet heard from OMB. A notice of OMB approval will be published in the **Federal Register** upon its receipt. Any comments regarding collection requirements should be sent to the NCUA, Administrative Office, 1776 G Street, NW., Washington, DC 20456; and to Gary Waxman, OMB, Room 3228, NEOB, Washington, DC 20503.

Executive Order 12612

Implementation of the IRPS will not affect the state regulation of either federally- or state-chartered credit unions.

List of Subjects in 12 CFR Part 701

Credit union, Field of membership, Chartering, Field of membership addition, Mergers, Conversions.

By the National Credit Union Administration Board on July 20, 1989.

Becky Baker,

Secretary, NCUA Board.

Accordingly, NCUA amends 12 CFR Part 701, supersedes IRPS 84–1 and establishes the following IRPS 89–1 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798.

2. Section 701.1 is revised as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration practices and procedures concerning chartering, field of membership modifications, and conversions are set forth in Interpretive Ruling and Policy Statement 89–1—Chartering and Field of Membership Policy (IRPS 89–1). The IRPS is incorporated into this regulation. Copies of the IRPS can be obtained from the National Credit Union Administration, Washington, DC, 20456.

3. IPRS 84–1 is superseded by the following IRPS 89–1.

Note.—The following ruling will not appear in the Code of Federal Regulations.

INTERPRETIVE RULING AND POLICY STATEMENT 89–1—CHARTERING AND FIELD OF MEMBERSHIP POLICY

Chapter 1—Federal Credit Union Chatering

I. Goals of NCUA Chartering Policy

NCUA's chartering policies are directed toward achieving three goals:

A. To uphold the provisions of the Federal Credit Union Act concerning granting Federal charters;

B. To promote credit union safety and soundness; and

C. To make quality credit union service available to all eligible groups who wish to have it.

II. Who May Apply for a Federal Credit Union Charter

NCUA may grant a charter to any group where it finds:

—The group possesses a recognizable and appropriate common bond;
—The subscribers are of good character and are fit to represent the group; and
—Establishment of the credit union is economically advisable—i.e., it will be a viable institution and its chartering will not materially affect the interests of other credit unions or the credit union system.

Generally, these are the only criteria NCUA will look to. In unusual

circumstances, however, NCUA may consider other factors, such as other Federal law or public policy in deciding if a charter should be approved.

A. *Common Bond.* Congress has recognized three types of Federal credit union common bonds: occupational, associational, and community. A Federal credit union may also consist of a combination of occupational and associational groups—for example, NCUA may charter a Federal credit union consisting of employees of a local school district and members of a church group. Individual groups have their own common bond. All of the groups belonging to one particular credit union (i.e., listed in Section 5 of the credit union's charter) make up the credit union's field of membership.

If the charter is granted, the Federal credit union will only be able to grant loans and provide services to persons within the groups defined in the charter. If the Federal credit union later wishes to add persons to its field of membership, it must submit a charter amendment request to NCUA in accordance with the procedures set forth in Chapter 2.

1. *Occupational Common Bond.* NCUA has limited this common bond to employment by the same enterprise. Persons sharing this common bond may be geographically dispersed. Employees of a parent corporation and its wholly-owned subsidiaries and persons under contract to work regularly for an enterprise may be considered under a single occupational bond. Each category to be served (e.g., subsidiaries, contractors) must be separately listed. Persons with different employers, even if closely related geographically—persons working at a single shopping center, industrial park, or office building, for example—are not treated as having a single common bond, but will be considered under NCUA's community or multiple-group charter policies.

All occupational common bonds will include a geographic definition: e.g., "employees, officials, and persons who work under contract regularly for ABC Corporation or any of its subsidiaries, who work in Miami, Florida." Other acceptable geographic definitions are: "employees * * * who are paid from * * *" or "employees * * * who are supervised from * * *."

The employer may also be included in this common bond—e.g., "ABC Corporation and its subsidiaries." The employer will be defined in the last clause describing the group.

Some examples of occupational group definitions are:

a. "Employees of the Scott Manufacturing Company who work in Chester, Pennsylvania * * *."

b. "Employees and elected and appointed officials of municipal government in Parma, Ohio * * *."

c. "Employees of Johnson Soap Company and its majority-owned subsidiary, Johnson Toothpaste Company, who work in Augusta and Portland, Maine * * *."

d. "Personnel of fleet units of the U.S. Navy home ported at Mayport, Florida * * *."

e. "Civilian and military personnel of the U.S. Government who work or are stationed at, or are attached or assigned to Fort Belvoir, Virginia, or those who are retired from, or their dependents or dependent survivors who are eligible by law or regulations to receive and are receiving benefits or services from, that military installation * * *."

f. "Employees of these contractors who work regularly at U.S. Naval Shipyard in Bremerton, Washington * * *."

g. "Employees, doctors, medical staff, technicians, medical and nursing students who work at Boston Medical Center at the locations stated: * * *."

h. "Employees and teachers who work for the School District Number 3 in Austin, Texas * * *."

Some examples of insufficiently defined occupational groups are:

a. "Employees of engineering firms in Seattle, Washington." (No common employer; names of firms must be stated; however, may be the basis for a multiple group.)

b. "Persons employed or working in Chicago, Illinois." (No common employer; names of firms must be stated.)

c. "Persons working in the entertainment industry in California." (No common employer; names of firms must be stated.)

2. *Associational Common Bonds.* NCUA limits this common bond to groups consisting primarily of individuals (natural persons) who participate in activities developing common loyalties, mutual benefits, and mutual interests. Qualifying associational groups must hold meetings open to all natural person members at least once a year, must sponsor other activities providing for contact among natural person members, and must have an authoritative definition of who is eligible for membership—usually, this will be the association's constitution and bylaws. The clarity of the associational group's definition and compactness of its membership will be important criteria in reviewing the application. NCUA policy is to organize associational charters at the lowest organizational level which is economically feasible.

Student groups constitute an associational common bond and may qualify for a Federal credit union charter.

Associations formed primarily to obtain a credit union charter do not have a sufficient associational common bond; nor do associations based on a client or customer relationship—an insurance company's customers or a buyer's club, for example.

NCUA normally charters associational Federal credit unions consisting of natural person members. In certain instances, NCUA will allow nonnatural persons (e.g. corporate sponsor or organizations of members) to be eligible for membership.

Moreover, the common bond extends only to the association's members. The employees of a member of a local chamber of commerce, for example, do not have a sufficiently close tie to the association to be included. A proposal to include these persons among those to be served by the Federal credit union will be considered as a multiple-group charter application.

Homeowner associations, tenant groups, electric co-ops, consumer groups and other groups of persons having an "interest in" a particular cause and certain consumer cooperatives may be eligible to receive a Federal charter; however, they must make a strong showing of common activities and economic viability. Newly-organized associations must make a similar showing; experience has shown that a new group's efforts are best focused on solidifying member interest before attempting to offer credit union service.

All associational common bonds will include a definition of the group and a geographic or "operational area" limitation—unless the constitution or bylaws of the associational group limit the geographical area—e.g., "Members of the ABC Association living or working in New York, New York, who qualify for membership in accordance with its constitution and bylaws in effect on January 21, 1989."

The association itself may also be included in the field of membership—e.g., "ABC Association."

Some examples of associational group definitions are:

a. "Regular members of Locals 10 and 13, IBEW Union, Miami, Florida, who qualify for membership in accordance with their constitution and bylaws in effect on May 20, 1989."

b. "Members of the Hoosier Farm Bureau who live or work in Grant,

Logan, or Lee Counties of Indiana, who qualify for membership in accordance with its constitution and bylaws in effect on March 7, 1980."

c. "Members of the Mennonite Church who live or work in the State of Kansas."

d. "Members of the Shalom Congregation who live in Chevy Chase, Maryland."

e. "Regular members of the Corporate Executives Association, located in Westchester, New York, who live or work in Westchester, Rockland, and Suffolk Counties in New York, who qualify for membership in accordance with its constitution and bylaws in effect on December 1, 1985."

f. "Members of the Northern Michigan Electric Co-op located in Marquette, Michigan."

Some examples of insufficiently defined associational group definitions are:

a. "Members of military service clubs in the State of New Mexico." (No single associational tie; specific clubs and locations must be named; may be considered as multiple group).

b. "Veterans of U.S. military service."

Some examples of unacceptable associational common bonds are:

a. "ABC Buyers Club." (An interest in purchasing only does not meet associational standards.)

b. "Customers of ABC Insurance Company." (Policyholders or customer/client relationships do not meet associational standards.)

3. *Community Common Bonds.* Congress has required that a credit union charter that will be based on a tie to a specific geographic location be limited to "a well-defined neighborhood, community, or rural district." NCUA policy is to limit the community to a single, compact, well-defined area where residents commingle and interact regularly. NCUA recognizes two types of affinity on which a community charter bond can be based: residence and employment. Businesses and other legal entities within the community boundaries may also qualify for membership. Given the diversity of community characteristics throughout the country and NCUA's goal of making credit union service available to all eligible groups who wish to have it, NCUA has established the following common bond requirements:

a. The geographic area's boundaries must be clearly defined; and

b. The charter applicant must establish that the area is recognized by those who live and work there as a distinct "neighborhood, community, or rural district."

A typical definition of a community-based common bond is: "Persons who live or work in and businesses and other legal entities located in ABC, the area of XYZ City bounded by Fern Street on the north, Long Street on the east, Fouth Street on the south, and Elm Avenue on the west."

If the community is also a recognized legal entity, it may also be included in the field of membership—e.g., "DEF Township."

Some examples of community common bond definitions are:

a. "Persons who live or work in ABC County, Maine."

b. "Persons who live or work in and businesses and other legal entities located in Independent School District No. 1, ABC County, Minnesota."

c. "Persons who live or work within a ten-mile radius of Walnut, Illinois" (Rural areas only.)

Some examples of insufficiently defined community common bond definitions are:

a. "Persons who live or work within *and businesses located within* a ten-mile radius of Washington, D.C." (Not a recognized "neighborhood, community, or rural district.)

b. "Persons who live or work in the industrial section of XYZ, New York."

4. *Multiple-Group Charters.* NCUA may charter a Federal credit union to serve a combination of distinct, definable occupational and/or associational groups. However, NCUA will not charter as a single Federal credit union multiple groups which include one based on a community common bond.

In addition to general chartering requirements, special requirements pertaining to multiple-group applications must be satisfied before NCUA will grant such a charter.

a. Each group to be included in the proposed field of membership of the Federal credit union must have its own common bond.

b. Each group must individually request inclusion in the proposed Federal credit union's charter.

c. All groups must be within the operational area of a planned home or branch office of the proposed Federal credit union. "Operational area" is an area surrounding the home or a branch office that can be reasonably served by the applicant as determined by NCUA. For chartering purposes, "branch office" means any office of a Federal credit union where an employee accepts payment on shares and disburses loans. An ATM or similar cash disbursing machine does not qualify as a "branch office."

An example of a multiple-group field of membership is:

"The field of membership of this Federal credit union shall be limited to those having the following common bond:

1. Employees of DuPont Corp. who work in Wilmington, Delaware;

2. Partners and employees of the law firm of Smith & Jones who work in Wilmington, Delaware;

3. Members of the GHI Associations who live in Wilmington, Delaware, and qualify for membership in accordance with its constitution and bylaws.

5. *Other Persons Sharing Common Bond.* A number of persons by virtue of their close relationship to a common bond group may be included at the charter applicant's option in the field of membership:

a. "Spouses of persons who died while within the field of membership of this credit union";

b. "Employees of this credit union";

c. "Persons retired as pensioners or annuitants from the above employment";

d. "Members of their immediate families";

e. "Volunteers";

f. "Organizations of such persons."

"Members of their immediate families" may be generally defined as deemed appropriate by a Federal credit union when including this group among those to be served. To be made effective, however, the Federal credit union's board of directors must approve the definition by resolution, and include it in Article XVIII, Section 2, of its bylaws. The single exception is for those Federal credit unions serving student groups: only the "members of the immediate families" of students who actually join the Federal credit union may be included. NCUA defines this secondary group for student groups as follows: "Members of the immediate families of students who are members of this credit union."

Volunteers, by virtue of their close relationship with a sponsor group may be included. Examples include volunteers working at a hospital or in a church.

Under Article II, Section 5, of NCUA's Standard Bylaws, if a member leaves the field of membership, standard member services will be terminated. However, the board of directors may, by resolution, set forth the circumstances under which a member may maintain membership. This option is commonly referred to as the "once a member, always a member" bylaw provision.

B. *Character and Fitness of Subscribers.* The Federal Credit Union

Act requires that seven or more natural persons must present to NCUA for approval a sworn organization certificate stating at a minimum:

1. The name of the proposed Federal credit union;
2. The location of the proposed Federal credit union and the territory in which it will operate;
3. The names and addresses of the subscribers to the certificate and the number of shares subscribed by each;
4. The initial par value of the shares;
5. The proposed field of membership, specified in detail;
6. The term of the existence of the corporation, which may be perpetual; and
7. The fact that the certificate is made to enable such persons to avail themselves of the advantages of the Federal Credit Union Act.

These seven or more persons will be the proposed Federal credit union's "subscribers." False statements on this certificate may be grounds for Federal criminal prosecution.

The Act also requires NCUA to satisfy itself as to the "general character and fitness" of these subscribers. These persons, therefore, may be the subject of credit and background investigations at NCUA's discretion.

C. *Economic Advisability.* Before chartering a Federal credit union, NCUA must be assured that the institution will be viable and that it will not materially affect existing state or Federal credit unions. This economic advisability inquiry has become especially important since 1970, when Congress assigned NCUA the obligation to establish a Fund insuring credit union shares and to preserve that Fund.

NCUA will conduct an independent on-site investigation for each charter application to assure itself that the proposal can be successful.

1. *The Proposed Federal Credit Union's Viability.* The success of any credit union depends on: (a) The depth of the members' support; (b) the character and fitness of management; and (c) present and projected market conditions.

a. *Member Support.* While NCUA has not set a minimum size field of membership for chartering a Federal credit union, experience has shown that a credit union with under 500 potential members generally is unlikely to succeed. A charter applicant with a proposed field of membership of under 500 will have to demonstrate convincing support for the credit union. For example, in an occupational group a commitment for significant long-term support from the employer must be in evidence.

The group's size is only of help if members participate in the credit union. The charter applicant must show that a substantial percentage of the group's members will join the credit union and use its services. Survey results must be based at a minimum on a sampling of 250 potential members. In particular instances, especially where the common bond is broadly-defined or newly-established, NCUA may require a larger sampling.

b. *Proposed Management's Character and Fitness.* The applicant must provide a list of the persons who will serve as officials. NCUA will conduct a credit and background (including criminal record) investigation on each of the proposed Federal credit union's officials. NCUA also reserves the right to perform such checks on employees of the applicant FCU. The Agency will also need assurance that the management team will have the requisite skills—particularly in leadership and accounting—and the commitment to dedicate the time and effort needed to make the Federal credit union a success.

c. *Present and Future Market Conditions:* The ability to compete in the marketplace and to adapt to changing market conditions is key to the survival of any enterprise, and a crucial part of that is the ability to plan well. NCUA, therefore, requires an applicant to submit a business plan based on realistic and supportable projections and assumptions, including, as a minimum, these elements:

i. Mission statement;
ii. Analysis of market conditions—economic prospects for the group, availability of financial services from credit unions, banks, S&Ls;
iii. Summary of survey results;
iv. Financial services needed/desired;
v. Financial services to be provided;
vi. How/when services are to be implemented;
vii. Staffing of credit union and credentials of key employees;
viii. Physical facility—office, equipment;
ix. Type of recordkeeping system;
x. Budget for 1st, 2nd, and 3rd year;
xi. Semiannual pro forma financial statements for 1st, 2nd, and 3rd year, including assumptions—e.g., loans and dividend rates;
xii. Goals for number of members;
xiii. Goals for operating independently;
xiv. Source of funds to pay expenses during initial months of operation;
xv. Written policies (lending, investments, funds management);
xvi. Goals for dividends, generation of resources;
xvii. Plan for continuity—directors, committee members; and
xviii. Evidence of sponsor commitment if subsidies are critical to success of the Federal credit union.

NCUA expects that the subscribers and proposed officials will understand and support the business plan submitted.

2. *Overlaps.* (This discussion pertains to new charters as well as existing charters.)

An overlap exists when a group of persons is eligible for membership in two or more credit unions, including state charters. General policy requires that every effort be made to avoid an overlap. Ideally, a group of persons should be included in the field of membership in only one credit union.

Both new and existing credit unions are obligated to investigate the possibility of an overlap prior to submitting an application for a new charter or adding a group, by surveying the prospective field of membership and contacting the state credit union supervisor and the local credit union league or trade association. If and when an overlap situation does arise, officials of the involved credit unions are encouraged to work out the overlap problem between or among themselves. If the matter is resolved informally, the applicant must submit a letter to that effect from the credit union whose field of membership already includes the subject group. If no resolution is possible, an application for a new charter or expansion may still be submitted, but must also include information regarding the overlap and document attempts at informal resolution. In any event, the applicant Federal credit union must clearly indicate why a new credit union or expansion is being sought and why existing and potential members of the current credit union will support and join a newly-chartered or expanded Federal credit union.

When resolution of an overlap problem is not forthcoming, and other circumstances warrant an overlap, then an overlap may be permitted. Among the circumstances which may justify an overlap are: (1) Failure of the original credit union to provide service to the group, (2) limited participation by members or employees of the group in the original credit union after the expiration of a reasonable period of time, and (3) incidental overlap (the group of persons in question is so small as to have no material effect on the original credit union). In reviewing the overlap, the Regional Directors will consider the nature of the problem:

efforts made to resolve the situation; financial effect on the overlapped credit union; the desires of the group(s); the opinion of the state credit union supervisor, if applicable, and other interested parties; and the best interests of the involved potential or current members. In general, NCUA will not protect associational and community charters from overlaps with occupational charters.

A number of situations may not justify approval of a requested overlap. For example, if the requesting credit union offers certain specialized services not offered by the original credit union (such as credit cards, ATMs, and IRAs), the extra services alone may not justify the overlap. Also, proximity, by itself, does not warrant approval of an overlap. A Federal credit union in Chicago, Illinois, may not have a convincing argument, based on geography alone, that a select employee group (SEG) also located in Chicago would be better served by it than by the SEG's headquarters credit union located in Dallas, Texas.

From an overlap prevention perspective, new charter applicants and every occupational or associational group which comes before the Regional Directors for affiliation with an existing Federal credit union must advise in writing whether the group is included within the field of membership on any other credit union. This requirement will alert the Regional Directors to possible overlap situations before they occur. Thus, most potential field of membership conflicts can be avoided. If cases do arise where the assurance given to a Regional Director concerning unavailability of credit union service turns out later to be inaccurate, the misinformation is grounds for removal of the group from the Federal credit union's charter.

3. *Exclusionary Clauses.* (This discussion pertains to new charters as well as existing charters.)

In certain instances, exclusionary wording prohibiting certain overlaps may be used to help define the field of membership of a Federal credit union. Use of exclusionary wording should be avoided if possible. Generally, a thorough investigation of a charter application or an application for a field of membership expansion will disclose the situations where other credit union service is available. The field of membership should be written so that only the specific locations where credit union service is not currently available are allotted to the new charter or to the Federal credit union seeking the field of membership addition.

However, certain cases exist where a specific recitation of work locations (for an occupational group) or member locations (for an associational group) is not feasible. Corporations or associations with widely-dispersed employees or members fall into this "exception" category. In these special cases, exclusionary wording could be used to provide some limits on an extensive field of membership. An example might be employees of XYZ Corporation where XYZ Corporation is a relatively new company which specializes in acquisitions and divestitures and its corporate makeup is constantly changing. In this case the field of membership could be described as "employees of XYZ Corporation who work in the United States, except employees eligible for membership in another occupational-type credit union serving an employee unit of XYZ Corporation."

Another situation which may require exclusionary wording is the chartering of a new community credit union or the field of membership conversion of an existing occupational or associational credit union to a community charter. Although investigation may show that the residents of the proposed area of service by and large do not have access to a credit union, other credit unions may be operating in the community which desire to remain autonomous entities. If the Regional Director determines that avoidance of overlap is warranted, an exclusionary clause may be inserted in the community credit union's field of membership. Examples of exclusionary wording are as follows:

1. Persons who reside or work in Portland, Maine, except persons eligible for primary membership in ABC Employees Federal Credit Union or Portland City Employees Credit Union as of the date of this charter;

2. Persons who reside or work in Hilo, Hawaii, except employees of Hilo Sugar Company and the United States Government.

The exclusionary language in a community charter's field of membership ordinarily applies only to "primary" members of existing occupational-type credit unions. "Primary" is defined as the basic occupational or associational affinity to the field of membership defined in section 5 of the charter. In example 1 above, assuming that the two excluded Federal credit unions have single sponsor fields of membership, only employees of ABC Company and of the City of Portland would be excluded. Family members (or other secondary or derivative members) are not excluded. Also, unless special circumstances warrant, only occupational field of membership will be protected by the exclusion. That is, associational, multiple group and other community credit unions will not normally be afforded protection from overlap. Finally, by dating the exclusion, only those employee units in the field(s) of membership of the protected credit union(s) as of the specified date are excluded from membership eligibility in the community credit union. Thus, groups added by an occupational credit union subsequent to the establishment of the community charter are not excluded from the community credit union. In the second example above, dating the exclusion clause, which is written very specifically, is inappropriate.

Although use of exclusionary clauses by NCUA will normally be on an exception basis only, Regional Directors may, at their discretion, apply exclusionary wording to a credit union's field of membership. However, the clauses shall not be used in lieu of a thorough investigation of the availability of existing credit union service by a charter applicant or an applicant for a field of membership addition. Furthermore, it is NCUA's intent to use exclusionary clauses only to increase the vitality and strength of the credit union system, not to prevent people from obtaining credit union service.

III. Appropriateness of Proposed Federal Credit Union Name

It is the responsibility of the Federal credit union organizers to ensure that the FCU applicant's name or FCU name change does not constitute an infringement on the name of any corporation in their trade area. Prior to granting a charter or approving a name change, NCUA will ensure that the credit union's name: (a) is not already being used by another Federal credit union; (b) will not be confused with NCUA or another Federal or State agency, or with another credit union; and (c) does not include inappropriate language. The last three words in the name of every credit union chartered by NCUA must be "Federal Credit Union."

IV. Widely-Dispersed Associational Charters

NCUA policy is to charter associational Federal credit unions at the lowest organization level which is economically feasible. This does not preclude the granting of associational charters with widely-dispersed memberships. NCUA may grant such charters after scrutinizing the adequacy of the applicant's common bond. NCUA may, at its discretion, require that the proposed field of membership be

narrowed before granting a new charter; expansion to include a large portion of the association's members may be allowed at a later time if appropriate.

Also, as with any widely-dispersed group, overlap issues are likely to arise, either at the time of or subsequent to chartering. NCUA *will* consider the effect that granting a charter with such a group in its field of membership would have on any number of existing credit unions. In addition, an associational credit union with a widely-dispersed membership may expect overlaps to be granted to other credit unions in the future, particularly at the local level.

In recognition of these unique problems, NCUA follows a separate internal procedure for associational charter applications for associations with proposed fields of membership of 500 or more persons which cross NCUA regional boundaries. NCUA's Director of Examination and Insurance and all NCUA Regional Directors with any of the association's members located in their region must vote on the charter application. A majority vote is required for approvals; tie votes are referred directly to the NCUA Board for decision; denials are appealable to the Board.

V. Industrial Parks, Shopping Centers and Similar Groupings

A Federal charter may be available to persons working in a particular industrial park or shopping mall, either as community-based or as a multiple group. If the multiple group option is selected, all multiple group requirements must be met. Each employee group within the industrial park or shopping center must submit a letter requesting service. Only those groups submitting letters will be added to the charter. If the community option is selected, the industrial park or shopping center must meet the standards for community charters.

VI. Specially-Designated Federal Credit Unions

Some credit unions are recognized and designated by NCUA to perform certain functions different from those available to Federal credit unions in general. An applicant wishing to be considered for such a designation may, at the time of charter application, provide the additional information NCUA needs. NCUA will then consider the designation and the charter application together. The designation can also be applied for at a later time if all the requirements are met.

A. *Low-Income Credit Union.* A low-income credit union is defined as one where a majority of its members fall into one or more of these categories: (1) Those whose annual income falls at or below the lower-level standard of living classification as established by the Bureau of Labor Statistics and as updated by the Employment and Training Administration of the U.S. Department of Labor; (2) those who are residents of a public housing project who qualify for such residency because of low income; (3) those who qualify as recipients in a community action program; (4) those who are enrolled as full-time or part-time students in a college, university, high school, or vocational school. The Federal credit union applicant should forward a separate request for a low-income designation at the time the application is submitted with appropriate documentation.

A credit union designated by NCUA as a low-income credit union has greater flexibility in accepting nonmember deposits insured by NCUA. The credit union may also participate in special funding such as the Community Development Revolving Loan Program for Credit Unions if it is involved in the stimulation of economic development activities and community revitalization efforts.

B. *Corporate Federal Credit Union.* A corporate credit union is defined as: (1) One that is operated primarily for the purpose of serving other credit unions; and (2) one whose total dollar amount of outstanding loans to member credit unions plus shares issued to member credit unions equals or exceeds 75 percent of its total outstanding loans plus shares and deposits. They are governed by different reserving and other standards as set forth in Part 704 of NCUA's Rules and Regulations.

VII. How To Apply for a Federal Credit Union Charter

A. *Organizing a Federal Credit Union.* Federal credit unions are organized by persons who donate time and resources and are responsible for determining the interest, commitment, and advisability of forming a Federal credit union. The organization of a Federal credit union takes considerable planning and dedication in order to ensure the success of the new credit union.

Persons interested in organizing a Federal credit union should contact the NCUA Regional Director serving the state in which the credit union will be organized or their state credit union league. A list of NCUA offices is attached as Exhibit A to this Chapter. NCUA will provide information to groups interested in pursuing a Federal charter and will assist them in obtaining an organizer.

A credit union organizer may be a trade association representative, an NCUA examiner, or a volunteer with training and experience in chartering new Federal credit unions. The functions of the organizer are to provide direction, guidance, and advice on the chartering process. The organizer also provides the group with information about a credit union's functions and purpose as well as technical assistance in preparing and submitting the charter application. Close communication and cooperation between the organizer and the group members is critical to the chartering process.

Once the group has decided to apply for a Federal credit union charter and the organizer is satisfied that the application has merit, the group should elect 7 to 10 persons to serve as subscribers. The subscribers and organizer will work together to ensure that information required in the Federal Credit Union Investigation Report (NCUA 4001 for Federal credit union applicants or NCUA 4000 for applications to convert to a Federal charter) is well supported and documented. The organizer and subscribers should develop a business plan as discussed earlier in this chapter. The subscribers should also locate willing individuals capable of serving on the board of directors, credit committee, supervisory committee, and as treasurer/manager of the proposed credit union. This documentation will be submitted along with other chartering documents by the organizer following the charter organization meeting.

A charter organization meeting will be called as soon as the subscribers and organizer are satisfied that the required chartering information has been collected. The charter organization meeting should be attended by all subscribers, persons who have agreed to serve on the board or committees, and any other potential members of the credit union. At this meeting, the organizer will discuss the progress and conclusions of the charter investigation, will announce the proposed slate of officials, and will respond to any questions posed at the meeting. When satisfied that the group meets all the chartering requirements, the subscribers should then sign and have notarized two copies of the Organization Certificate (NCUA 4008) and provide this to the organizer for inclusion in the charter application. As their final duty, the subscribers will elect the board of directors and credit committee of the proposed Federal credit union. The charter organization meeting should then be adjourned.

Following the charter organization meeting, the board of directors should meet to elect officers and appoint members of the supervisory committee. The credit and supervisory committees should then meet to elect their respective chairmen and secretaries. The minutes of these and all future board of directors and committee meetings should be kept and safeguarded by their respective secretaries. Each official should execute a copy of Report of Officials and Agreement to Serve (NCUA 4012) to be submitted with the charter application package.

The board of directors should take action to apply for insurance of member accounts. The Certificate of Resolutions (NCUA 9501) should be executed by the president and secretary. Following action on this issue, the president and treasurer should execute the Application and Agreements for Issuance of Accounts (NCUA 9500). These documents should be provided to the organizer as part of the charter application. These actions conclude the major activities for the first meeting of the board of directors.

B. *Support for Charter Application.* As discussed previously in this Chapter, applicants for Federal credit union charters must, at a minimum, provide evidence that:

The group constitutes a recognized common bond;

The subscribers are of good character; and

The establishment of the credit union is economically feasible.

In addition, the Federal Credit Union Act requires applicants to submit a sworn organization certificate setting forth seven criteria (see Section II B of this Chapter). In order to process the application and capture all required information, NCUA has developed certain chartering forms to assist organizers.

1. *Federal Credit Union Investigation Report.* Applications for new Federal credit unions will be submitted on Form NCUA 4001. (State-chartered credit unions applying for conversion to Federal charter will use Form NCUA 4000. *See* Chapter 3 for a full discussion.) The organizer is required to certify the information and recommend approval or disapproval, based on the investigation of the request. Instructions and guidance for completing the form are provided on the form's reverse side. Associational charter applicants must include a statement of their membership criteria (normally the associations's constitution or bylaws) and the association's current financial statement.

2. *Report of Official and Agreement to Serve, NCUA 4012.* This form documents general background information of each official of the proposed Federal credit union. Each official must complete and sign this form. In addition, NCUA will request credit and criminal investigations of new officials.

3. *Organization Certificate, NCUA 4008.* This document establishes the seven criteria required of subscribers by the Federal Credit Union Act and is signed by the subscribers and notarized. This document should be executed in duplicate.

4. *Certification of Resolutions, NCUA 9501.* This document certifies that the board of directors of the proposed Federal credit union has resolved to apply for insurance of member accounts and has authorized the president and treasurer to execute the Application and Agreements for Insurance of Accounts. This form must be signed by both the president and secretary of the proposed Federal credit union.

5. *Application and Agreements for Insurance of Accounts, NCUA 9500.* This document contains the agreements with which Federal credit unions must comply in order to obtain National Credit Union Share Insurance Fund (NCUSIF) coverage of member accounts, including appropriate fidelity bond coverage of officials. The document must be completed and signed by both the president and treasurer.

6. *Business Plan.* While the required business plan need not follow a prescribed form, it must include all of the information set forth in Chapter 1.

C. *Submittal of Application.* Applications for new charters should be submitted to the Regional Director serving the state in which the proposed credit union is headquartered. Applications for Federal credit union charters should include, at a minimum, the documentation discussed in section B above. All charter applications are processed by the Regional Director in accordance with NCUA procedures.

The appropriate NCUA regional office will investigate all applications for Federal credit union charters. The investigation will include on-site contacts by NCUA with proposed officials and others having an interest in the proposed new charter. Credit and background checks will be requested for the credit unions' proposed officials. NCUA will acknowledge receipt of the application and will estimate processing time. Every effort will be made to act expeditiously on all applications.

VIII. Letters of Understanding and Agreement

NCUA has found from experience that certain activities generally cause significant problems for new credit unions. Therefore, in most cases, NCUA will require the prospective Federal credit union's officials to enter into an agreement not to engage in certain activities. The agreement is for a limited term—usually two to four years. A sample letter is attached as Exhibit B of this Chapter.

IX. Approvals

NCUA will make every effort to process the application expeditiously. Once approved, the board of directors of the newly-formed Federal credit union will receive a signed charter and by-laws from the Regional Director. In addition, the officials will be advised of the name and mailing address of the examiner who has been assigned responsibility for supervising and examining the credit union. Generally, the examiner will contact the credit union officials shortly after approval of the charter in order to arrange for the initial examination (usually within the first six months of operation). Assistance in commencing operations is generally available through the various state credit union leagues.

X. Appeals

New charter applications denied by the NCUA Regional Office are appealable to the NCUA Board. All such appeals should be sent to the appropriate NCUA Regional Office to be forwarded to the Central Office.

Exhibit A—NCUA Regions/Regional Offices

REGION I—ALBANY

9 Washington Square Washington Avenue Extension Albany, NY 12205

Commercial: 518–472–454
FTS: 8–562–4454
FAX: 518–869–1788

Maine	Rhode Island
New Hampshire	Connecticut
Vermont	New York
Massachusetts	New Jersey
Virgin Islands	Puerto Rico

REGION II—CAPITAL

1776 G Street, NW, Suite 600 Washington, DC 20006

Commercial: 202–682–1900
FAX: 202–789–2043

Pennsylvania	Delaware
Maryland	Virginia
West Virginia	District of Columbia

REGION III—ATLANTA

7000 Central Parkway
Suite 1600
Atlanta, Georgia 30328

Commercial: 404–396–4042

FAX: 404–698–8211

Kentucky	Louisiana
Tennessee	Arkansas
North Carolina	Georgia
South Carolina	Alabama
Mississippi	Florida

REGION IV—CHICAGO

300 Park Blvd., Suite 155
Itasca, Illinois 60143

Commercial: 312–250–6000
FTS: 8–312–250–6000
FAX: 312–889–9707

Wisconsin	Indiana
Michigan	Illinois
Ohio	Missouri

REGION V—AUSTIN

48007 Spicewood Springs Road
Suite 5200
Austin, Texas 78759

Commercial: 512–482–4500
FTS: 8–770–4500
FAX: 512–482–4511

Kansas	New Mexico
Oklahoma	Utah
Arizona	Texas

AUSTIN SUBOFFICE

320 6th Street, Room 202
Sioux City, Iowa 51101

Commercial: 712–233–3233
FTS: 8–862–3233
FAX: 712–255–9145

Minnesota	South Dakota
Iowa	North Dakota
Nebraska	Wyoming
Colorado	

REGION VI—PACIFIC

2300 Clayton Road
Suite 1350
Concord, California 94520

Commerical: 415–486–3490
FTS: 8–449–3490
FAX: 415–486–3729

Washington	Montana
Oregon	Idaho
California	Nevada
Alaska	Guam
Hawaii	

Exhibit B—Letter of Understanding and Agreement

To the Board of Directors and Other Officials
_____ Federal Credit Union

Since the purposes of credit unions are to promote thrift and to make funds available for loans to credit union members for provident and productive purposes, and since newly-chartered credit unions do not generally have sufficient reserves to cover large losses on loans or meet unduly large liquidity requirements, Federal insurance coverage of member accounts under the National Credit Union Share Insurance Fund will be granted to the above named credit union subject to the conditions listed in this Letter of Understanding and Agreement and in the Organization Certificate and Application and Agreements for Insurance of Accounts. These terms are listed below and are subject to acceptance by authorized credit union officials.

1. The credit union will refrain from soliciting or accepting brokered fund deposits from any source without the prior written approval of the Regional Director.

2. The credit union will refrain from the making of large loans, that is, loans in excess of 5 percent of unimpaired capital and surplus, to any one member or group of members without the prior written approval of the Regional Director.

3. The credit union will not establish or invest in a Credit Union Service Organization (CUSO) without the prior written approval of the Regional Director.

4. The credit union will not enter into any insurance programs whereby the credit union member finances the payment of insurance premiums through loans from the credit union.

5. Any special insurance plan/program, that is, insurance other than usual and normal surety bonding or casualty or liability or loan protection and life savings insurance coverage, which the credit union officials intend to undertake, will be submitted to the Regional Director of the National Credit Union Administration for written approval prior to the officials committing the credit union thereto.

6. The credit union will prepare and mail to the district examiner, financial and statistical reports as required by the Federal Credit Union Act and Bylaws, by the 20th of each month following that for which the report is prepared.

7. As the credit union's officials gain experience and the credit union achieves target levels of growth and profitability, the above terms and conditions may be renegotiated by the two parties.

Dated this _____ day of _____, 1989.
National Credit Union Administration Board
on behalf of the National Credit Union
Share Insurance Fund

Regional Director

We, the undersigned oficials of the _____ Federal Credit Union, as authorized by the board of directors, acknowledge receipt of and agree to the attached Letter of Understanding and Agreement dated _____ 1989.

This Letter of Understanding and Agreement has been voluntarily entered into with the National Credit Union Administration. We agree to comply with all terms and conditions expressed in this Letter of Understanding and Agreement.

Should the NCUA Board determine that these terms and conditions have not been complied with or that the board of directors or other officials have not conducted the affairs of the credit union in a sound and prudent manner, the NCUA Board may terminate insurance coverage of the credit union. If actions by the officials, in violation of this Letter of Understanding and Agreement, cause the credit union to become insolvent, the officials assume such personal liability as may result from their actions.

The term of this Letter of Understanding and Agreement shall be for the period of at least 24 months from the date the credit union is insured. This Letter of Understanding and Agreement may, at the option of the Regional Director, be extended for an additional 24 months at the end of the initial term of this agreement.

_____ Federal Credit Union

By:
Date _____

Chief Executive Officer (President)
Date _____

Chief Financial Officer (Treasurer)
Date _____

Chief Recording Officer (Secretary)

Chapter 2—Changes in Field of Membership

As in the case of NCUA chartering policy, the goals for field of membership expansion are:

A. To uphold the provisions of the Federal Credit Union Act concerning the granting of Federal charters;

B. To promote credit union safety and soundness; and

C. To make quality credit union service available to all *eligible groups* who wish to have it.

A Federal credit union's field of membership is an official statement which specifically defines who may become a member of the credit union. It is recorded in section 5 of the credit union's charter.

Any change to the field of membership, whether it is an addition, deletion, or simple update, must be reflected formally in section 5 of the credit union's charter. Changes to section 5 are normally initiated by the officials of the respective Federal credit union and submitted in writing to the appropriate NCUA Regional Office for approval.

The National Credit Union Administration Board has delegated the authority to the Regional Directors to act on most charter amendment requests. This delegation enables the Agency to respond to the majority of requests promptly. However, certain complex proposals require special investigation by the Regional Directors, and may also require consultation with other Regional Directors and the Agency's Central Office. Applicants submitting such complex proposals will be advised in writing of the need for special review and the likelihood of extra processing time.

Reasons for Requesting an Amendment

A Federal credit union's board of directors may wish to request a field of membership amendment for a variety of reasons, including, but not limited to:

—Providing credit union access and service to an additional, clearly-defined group of persons who desire to be served by the applicant credit union;

—Accommodating sponsor acquisitions or reorganization;
—Diversifying the membership base in order to withstand real or potential economic adversities (e.g., sponsor shutdown or cutback, economic downturn);
—Merger with another credit union;
—Expanding the membership base to facilitate an improvement of service to all members.

Field of Membership Addition Requests—Types and Criteria

Four types of charters exist (occupation, association, community, and multiple group) for purposes of establishing a Federal credit union. Field of membership expansions are achieved by adding groups (either occupational, associational or community) to an existing credit union.

The definition of common bond for purposes of field of membership additions is the same as that found in the previous chapter concerning Federal credit union chartering. The examples of groups which do and do not meet the definition of common bond found in that chapter apply to field of membership additions as well. Different criteria apply to occupational, associational and multiple group field of membership additions than apply to community field of membership expansions. These two sets of criteria are discussed below.

Special rules apply for credit union additions to provide service to retiree and senior citizen groups. Additional methods of increasing the field of membership are possible through a merger or a purchase & assumption. All of these types of expansions are discussed briefly below.

Occupational and associational groups which share the same common bond as the credit union's primary sponsor fall under the category of common bond additions. Occupational and associational groups which have a separate common bond from a Federal credit union's primary sponsor (common bond group) are added under the provisions of select group field of membership expansion policy. Select group and common bond expansions are treated somewhat differently.

Additions Within the Common Bond

Some field of membership expansions for occupational and associational type Federal credit unions can be accomplished along traditional common bond lines. For example, an FCU whose primary sponsor is a particular corporation may add by a charter amendment: the employees of that corporation who work at another location; employees of the corporation who are paid from or are supervised from the headquarters location, such as sales persons or sales agents who work at a number of locations; employees of a division or majority-owned subsidiary of the parent corporation regardless of location or employees of a related company, such as a company under contract and possessing a strong dependency relationship on the sponsoring corporation.

The written request for an addition must be supported by a letter from an authoritative representative of the organization to be added. This letter should indicate:

(1) That the group wants to affiliate with the applicant Federal credit union;

(2) That at present the group does not have the availability of a credit union; and

(3) The number of persons currently employed by the corporate unit.

Whenever possible, this letter should be submitted on the letterhead stationery of the respective corporate entity. Included with the request for expansion must be a current financial statement for the applicant Federal credit union.

For associational Federal credit unions, expansions along common bond lines will normally be allowed only at the lowest economically feasible organizational level of the sponsoring association. For example, a Federal credit union serving the members of a local chapter of an association could apply to serve the members of another chapter.

The approval or disapproval of a field of membership amendment request of an existing FCU adding an association which crosses NCUA regional boundaries may be subject to special review, and this may cause some delay in processing. The Regional Director whose jurisdiction includes the applicant credit union will notify the applicant of the special review and will advise the applicant in writing of the estimated time frame needed to reach a decision.

Unlike select group additions, common bond additions do not have operational area requirements. That is, an addition within the common bond may be approved even though the applicant FCU does not have an office in the vicinity of the group to be added.

Select Group Additions

A select group of persons seeking credit union service from an occupational, associational or multiple group Federal credit union must have its own common bond. The select groups themselves may be either employee (occupational) groups or associational groups. However, a select group for expansion purposes cannot be defined by a common bond of community. The group's common bond need not be similar to the common bond(s) of the existing Federal credit union. In addition to the group having its own common bond, the following five criteria must be satisfied before an addition request will be approved.

a. All affected groups have requested service from the applicant FCU.

b. The applicant FCU possesses the financial resources and management capability to provide quality credit union service to each group. The applicant credit union's current CAMEL rating and financial condition will be considered under this criterion.

c. The addition request is economically feasible and advisable.

d. The applicant obtains a written statement from each group indicating whether the group is currently eligible for membership or is being served by any other credit union. If the groups are eligible for membership in another credit union, justification must be provided to show that the groups no longer desire that eligibility for continued service. The applicant credit union must provide a written statement from any overlapped credit union concurring or objecting to the overlap.

e. The group must be within the operational area of the home or a branch office of the FCU. Operational area is defined as an area surrounding the home or branch office that can reasonably be served by the applicant as determined by NCUA. Although a new select group alone is not enough to justify a proposed branch office, it is permissible to include new groups as partial justification for a proposed branch office if that office will also improve credit union service to the existing field of membership. However, the current field of membership must comprise a significant portion of the total field of membership to be served initially by the proposed branch office. A branch office means any office of a Federal credit union where an employee accepts payment on shares and disburses loans. An ATM, or similar cash disbursing machine, does not qualify as a branch office for purposes of field of membership expansion.

The process to add a select group to a Federal credit union's field of membership is a relatively simple one. A Federal credit union must submit a formal written request for the expansion to the appropriate Regional Office of NCUA. The request should be signed by the credit union's president or chairman of the board of directors. Accompanying

the correspondence from the requesting credit union should be (1) a letter signed by an authoritative representative of each select group to be added and (2) a current financial statement for the requesting credit union. The letter from the select group should indicate at least the following:

1. The number of employees or members in the select group;

2. Whether the group currently has access to another credit union (if it does, then the other credit union should be specifically identified. A letter from the overlapped credit union should be obtained stating its concurrence or objection. If objections are raised, then the overlapped credit union is required to furnish the number of persons from the select group who are enrolled as members.);

3. That the select group is interested in obtaining service from the requesting credit union and that the group will support the credit union by such means as providing access to its employees or members via payroll deduction, use of employee or member newsletters, etc., and

4. The proximity to the applicant credit union's closest office.

Credit unions using the select group addition alternative should obtain the supporting letter from the group on the select group's letterhead stationery. The letterhead will enable NCUA to correctly identify the proper title of the select group and will provide validation of the select group's location (to ensure that the operational area requirement is satisfied).

It is possible for a Federal credit union to serve the employees or members of a select group who are located outside the operating area of the credit union as long as the select group has its headquarters (or its "paid from") location within the credit union's operating area, or a majority of the company's employees work within the credit union's operational area. However, special care will be exercised by the Regional Directors in considering requests for select associational group expansions where the association's membership is geographically dispersed. The associational chartering policy criteria discussed in Chapter 1 including Chapter 1, IV—Widely Dispersed Associational Charters, will apply in its entirety to select associational group expansion requests.

Community FCU Field of Membership Expansions

Community Federal credit union's may expand their fields of membership only by redefining the boundaries of their service area. Community charter policy stipulates that there be regular contact among persons who live or work within a well-defined neighborhood, community or rural district in order to satisfy the common bond requirements of the Federal Credit Union Act. The burden of proof for existence of the common bond is placed upon the applicant credit union.

An existing community Federal credit union may submit a request to expand its area of service by changing the boundaries which define its community field of membership. The enlarged area must constitute a geographical area that could be established as a community credit union under NCUA policy. Also, an existing occupational, associational or multiple group type Federal credit union may apply to convert to a community charter. In order to support a case for such an expansion, the applicant Federal Credit Union must submit a map or maps showing both the existing and proposed boundaries for the field of membership. The most current population figures for the two areas must be obtained and included in the package. The source of the population information must be recorded in the credit union's request. Evidence in the form of surveys or letters from authoritative representatives of prominent groups located in the area to be added must be furnished to show that the residents of the area are interested in affiliating with the applicant credit union. Information concerning the availability of financial services to the residents of the new area must be supplied. Especially important is whether other credit union service is currently available. If present credit union service to the residents of the new area is adequate, there may be no basis for the proposed expansion.

In addition, depending upon the significance of the potential membership increase, the Regional Director may require formulation of a business plan to show how the residents of the new area are to be served and whether the costs of this proposed service can be afforded by the applicant credit union. Whether or not a formal business plan is required, the applicant FCU must submit current financial statements with its proposal.

Finally, in the majority of cases where community credit unions are asking to expand their areas of service and in all cases where a conversion to a community charter is proposed, an NCUA examiner will make an on-site evaluation of the proposal. The examiner will prepare a separate analysis of the proposed expansion independent of the credit union's application. Following completion of the on-site evaluation and Regional Office review of the examiner's report, the Regional Director will act on the proposal, provided that the size of the proposed area's population does not exceed his delegated authority. If so, the applicant credit union will be formally apprised of the need for NCUA Board consideration.

Addition of Retiree or Senior Citizen Associations

Special rules apply for retiree or senior citizen groups that seek credit union service. For field of membership addition purposes, these groups are viewed as unique associational groups which do not need to meet all the requirements for associations discussed in Chapter 1. It is NCUA Board policy to make FCU service available to as many senior citizens and retirees as possible who are in fact interested in obtaining access to a credit union. Federal credit unions are encouraged to bring associations of senior citizens or retired persons within their fields of membership, and to sponsor and assist in the formation of such associations where they do not exist. The policies recited in Chapter 1 for associational groups (requiring that the sponsoring association be well-established and that it not be an organization created solely as a vehicle to obtain credit union service) do not apply to retiree or senior citizen associations. Such groups may be formed with the primary purpose of providing eligibility for FCU service to the associations and their members. The definitions of senior citizen or retiree are left to each organization. The operational area criterion does apply to senior citizen and retiree organizations.

Additions Via Mergers and Purchase and Assumptions

A Federal credit union may obtain the entire field of membership of another credit union through a merger. In general, for mergers where the continuing credit union is federally chartered, the field of membership criteria stipulated in this and the preceding chapter are applicable. The criteria do not apply in the case of emergency mergers.

The following discussion pertains to a continuing credit union that is federally chartered. Most mergers fall into one of two fields of membership categories. The mergers are feasible either because the two credit unions had common sponsors (like common bonds) or were located in the same operational area (multiple group). Two credit unions serving the employees of the same corporation may merge without regard

to the locations of the credit unions' offices. Similarly, two credit unions serving members of the same association may merge even though the two are not located in the same operational area. However, two credit unions with unlike fields of membership may only merge when they are located in the same operational area. Any combination of associational, multiple group, and occupational is permissible as long as the operational area requirement is satified. Mergers of any of these three types of field of membership into a community charter are permissible as long as the merging credit union is located within the community credit union's service area. The resulting field of membership remains a community charter.

Mergers of community credit unions into a Federal credit union of any type may be accomplished where the operational area requirement is satified and the continuing Federal credit union is not interested in obtaining the field of membership of the merging community charter. The continuing Federal credit union will only obtain the members of record of the merging credit union. Where both credit unions are community charters and the criteria for expanding the service area of a community credit union (as discussed previously in this chapter) are satisfied, the entire field of membership of the merging credit union will be added to the continuing Federal credit union's charter.

Regardless of the type of credit union involved where the merging credit union is suffering such severe financial difficulties that it will become insolvent within six months, it may merge into any Federal credit union in the same operational area. If the merging credit union is community based, its field of membership will be transferred intact to the continuing Federal credit union. In this case, the continuing Federal credit union will remain as an occupational, associational, multiple group, or community charter for purposes of future field of membership expansions.

Finally, a specifically designated emergency merger may be approved by the NCUA Board without regard to field of membership or other legal constraints. An emergency merger involves NCUA's direct intervention. The credit union to be merged must either be insolvent or in danger of insolvency *and* the NCUA Board must determine that:

A. An emergency requiring expeditious action exists;

B. Other alternatives are not reasonably available; and

C. The public interest would best be served by approving the merger.

In an emergency merger situation, NCUA takes an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability. As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing credit union.

Another alternative for acquiring the field of membership of a failing credit union is through consolidation known as purchase and assumption. A purchase and assumption has limited application because the failing credit union must be placed into involuntary liquidation. However, in the few instances where purchase and assumption may occur, the assuming Federal credit union may acquire the entire field of membership along with loans, shares and certain designated assets and liabilities, without regard to field of membership expansion restrictions and without changing the character of the credit union for purposes of future field of membership expansions.

Spin-Offs

A "spin-off" is, in effect, a partial merger. By agreement of the parties, a portion of the field of membership of a credit union, along with assets, liabilities, and capital, is transferred to a new or existing credit union. If the spin-off goes to a new Federal charter, the requirements of Chapter 1 apply. If it goes to an existing Federal charter, the requirements of Chapter 2 apply. Prior to completion, NCUA must approve all spin-offs in which a Federal credit union is involved.

Overlaps—See Chapter 1 for discussion.

Exclusionary Clauses—See Chapter 1 for discussion.

Reviewing Field of Membership Addition Requests

All field of membership requests will be reviewed by Regional Office staff in order to ensure that the requests conform to NCUA policy, are properly documented and do not cause significantly harmful or unreasonable overlap with the fields of membership of existing credit unions. NCUA understands and appreciates the importance of timely processing of well-supported addition requests. To respond to this desire for prompt handling, each Regional Office has established a goal of ten working days from the date of receipt in the Regional Office for complete processing of a routine addition request. A fully documented request that fulfills all of the criteria discussed in this manual and does not require written or telephone follow-up will normally be processed within this time.

In some cases, an on-site review by NCUA examiner staff may be requested by the Regional Director before acting on a proposed addition. Nonstandard or controversial requests, those involving associational, community or multiple charters, or those from credit unions with serious operational or management problems, are most likely to fall into this category. In addition, as stated in the earlier discussion in this chapter under community charter expansions, the Regional Director may, at his discretion, after taking into account the significance of the field of membership expansion proposed, require the applicant to submit a business plan.

The condition of the requesting credit union will be considered in every instance. The economic feasibility of expanding the field of membership of a credit union with serious management or operational problems must be carefully considered by regional staff if the safety and soundness of the credit union is to be preserved. In most cases, field of membership additions will only be approved for credit unions which are operating satisfactorily. If a Federal credit union is having difficulty providing good service to its current membership, it may have even more difficulty serving an enlarged field of membership. In some cases, expanding the field of membership of a struggling credit union may do more harm than good. A struggling credit union's resources need to be focused on current problems. Placing an additional strain on these resources by increasing the field of membership may also increase the credit union's problems.

If the requested addition is approved by the Regional Director, the credit union will be furnished a formal, updated section 5 of its charter which restates the entire field of membership, including the requested addition. After action by the board of directors, the form should be promptly filed with the credit union's official charter and bylaws.

If the request is denied by the Regional Director, the credit union will be so advised in writing and furnished specific reasons for the denial. This correspondence may include suggestions and other options for the credit union's consideration. This letter will also

include information about the availability of the appeals process. If a credit union's request is disapproved by the Regional Director, the credit union may appeal the decision (or request a review of the policy involved) to the NCUA Board through the appropriate Regional Director.

Service Status Reports

Federal credit unions which frequently add select groups to their fields of membership should be prepared to furnish a written summary of the results of their efforts to bring service to the employees or members of the select groups. The Regional Offices will request periodically that such FCU's submit service status reports to NCUA showing, at a minimum, the number of primary potential members of each select group added and the number of persons from each select group who have actually enrolled as credit union members. These service status reports can be enlarged to require information concerning aggregate share and loan activity by select group or participation in other credit union services. In any event, Federal credit unions using the select group addition method should implement an information gathering system early in their addition/diversification program to track their progress in bringing service to the potential members of their select groups.

This information will help the credit union to operate efficiently and will give management the data necessary to make decisions about marketing strategy, new promotions, implementation of new services, etc. The service status reports will enable NCUA to determine which Federal credit unions are serving newly-added groups, as well as any Federal credit unions that are not serving new groups. If the NCUA determines that a Federal credit union is not adequately serving new groups, the Regional Director may remove the select group(s) not being served from Section 5 of the credit union charter.

Chapter 3—Charter Conversions

A charter conversion is a change in the jurisdictional authority under which a credit union operates. A credit union's charter is the instrument given to the institution by the government, either state or Federal, granting to it the authority to carry out credit union business in accordance with law.

Federal credit unions receive their charters from NCUA and are subject to its supervision, examination, and regulation; they are incorporated under Federal law. State-chartered credit unions are incorporated in a particular state, receiving their charter from the state agency responsible for credit unions and subject to the state's supervisory authority. If the state-chartered credit union is federally insured by NCUA, it will also fall under NCUA's jurisdiction.

A Federal credit union's power and authority are principally derived from the Federal Credit Union Act and NCUA Rules and Regulations. State-charterd credit unions are principally governed by state law and regulation.

There are two types of charter conversions: Federal charter to state charter, and state charter to Federal charter. Although common bond is not an issue from NCUA's standpoint in the case of a Federal to state charter conversion, the procedures and forms relevant to such a conversion have been included.

I—Conversion of a State Credit Union to a Federal Credit Union

A. General Requirements

Any state-chartered credit union may apply to convert to a Federal credit union. In order to convert, it must:

1. Comply with state law regarding conversion;
2. File proof of compliance with NCUA;
3. File the required preliminary documents with NCUA;
4. Upon NCUA's approval of the preliminary documents file a proposed Federal credit union organization certificate;
5. Comply with the requirements of the Federal Credit union Act, e.g., common bond and reserve requirements; and
6. Be granted a charter by NCUA.

Conversions are treated the same as any initial application for a Federal charter, including mandatory on-site examination by NCUA. NCUA will also consult with the appropriate state authority regarding the credit union's current condition, management expertise, and past performance. Since the applicant in a conversion is an ongoing credit union, the economic advisability of granting a charter is more readily determinable than in the case of an initial charter application.

A converting state credit union's proposed field of membership must conform to NCUA chartering policy. However, existing members who would not be within the revised field of membership will be allowed to retain their membership after the conversion.

B. Submission of Conversion Proposal to NCUA

The following actions are to be taken before submitting a conversion proposal:

1. The credit union board must approve a proposal for conversion.
2. The Application to Convert (NCUA Form 4401) must be completed. Its purpose is to provide the Regional Director with information on the present operating policies and financial condition of the credit union and the reasons why the conversion is desired. A continuation sheet may be used if space on the form is inadequate. Particular attention should be given to answering the question on the reasons for conversion. These reasons should be stated in specific terms, not as generalities.
3. The Application must be accompanied by all required attachments. Additional attachments not specified in the Application but which must also be provided are:

a. Evidence that the state supervisory authority is either in agreement with the conversion proposal or, if not in agreement, the reasons therefor; and

b. The Application for Insurance of Accounts (Form NCUA 9600) in the case of a state credit union that is not federally insured.

c. The Federal Credit Union Investigation Report. Conversion of State Charter to Federal Charter (Form NCUA 4000).

d. The most current financial and statistical report.

C. NCUA Consideration of the Application to Convert

1. *Review by the Regional Director.* The Application will be reviewed to determine that it is complete and that the proposal is in compliance with Section 125 of the Federal Credit Union Act. This review will include a determination that the state credit union's field of membership is in compliance with NCUA's chartering policies. The Regional Director may make further investigation into the proposal and may require the submission of additional information to support the request to convert. At this point, NCUA will conduct an on-site review of the credit union.

2. *Examination and Payment of Fees.* NCUA will examine the books and records of the credit union on-site. NCUA will charge the credit union an examination fee. Nonfederally-insured credit unions will also be assessed an application fee.

3. *Conditions to the Approval.* The Regional Director will specify any special conditions that the credit union must meet in order to proceed with the conversion. When necessary, this will include changes to the credit union's

field of membership in order to conform to NCUA's chartering policies.

4. *Approval by the Regional Director.* The conversion will be approved by the Regional Director if it is in compliance with Section 125 of the Federal Credit Union Act and meets the criteria for Federal insurance.

5. *Notification.* The Regional Director will notify both the credit union and the state supervisory authority of the decision on the conversion.

D. Action by Board of Directors

Upon being informed of the Regional Director's approval, the board must:

1. Comply with all requirements of the state supervisory authority that will enable the credit union to convert to a Federal charter and cease being a state credit union;

2. Obtain a letter or official statement from the state supervisory authority certifying that the credit union has met all of the state requirements and will cease to be a state credit union upon its receiving a Federal charter. A copy of this document must be submitted to the Regional Director;

3. Submit a statement of the action taken to comply with any conditions imposed by the Regional Director in the approval of the conversion proposal.

E. Application for a Federal Charter

When the Regional Director has received evidence that the board has completed the actions described in (D) above, the credit union will be authorized to proceed in making application for a Federal charter.

The Regional Director will normally assign a staff member to assist the credit union in preparing its Organization Certificate, (Form NCUA 4008), *and an* Application and Agreements for Insurance of Accounts (Form NCUA 9500).

The Organization Certificate will be submitted to the Regional Director, together with the Application for Insurance.

When received by the Regional Director, the proposed Organization Certificate will constitute the credit union's formal application to become a Federal credit union. If the application is approved, the credit union may complete the conversion. Denials are appealable to the NCUA Board.

F. Completion of the Conversion

1. *Effective Date of Conversion.* The date on which the Regional Director approves the Organization Certificate and the Application and Agreements for Insurance of Accounts is the date on which the credit union becomes a Federal credit union. The Regional Director will forward to the credit union its Federal charter and Certificate of Insurance and will notify the state supervisory authority of the date of the conversion.

2. *Assumption of Assets and Liabilities.* As of the effective date, the Federal credit union will be the owner of all of the assets and will be responsible for all of the liabilities and share accounts of the state credit union.

3. *Board of Directors' Meeting.* Upon receipt of its Federal charter, the board will hold its first meeting as a Federal credit union. At this meeting, the board will transact such business as is necessary to complete the conversion as approved and to operate the credit union in accordance with the requirements of the Federal Credit Union Act and NCUA Rules and Regulations. Actions to be taken at this meeting include:

a. Change of the credit union's name on all records, accounts, investments, and other documents evidencing assets or liabilities of the credit union;

b. Changes to the credit union's books and records:

(1) As of the commencement of business, the accounting system, records, and forms must conform to the standards established by NCUA;

(2) New journal and cash record and general ledger pages should be set up. The general ledger accounts for the state credit union will be posted through the effective date of the conversion, and the new balances will be transferred to the new general ledger accounts of the Federal credit union;

(3) The income and expense accounts of the state credit union will *not* be closed unless the conversion is at the close of an accounting period or is required by the state supervisory authority; and

(4) The individual share and loan ledger accounts used by the state credit union may continue to be used. The Federal credit union's name should be properly reflected on these accounts.

4. *Reports to NCUA.* Within 10 days after commencement of operations, the Federal credit union must submit to the Regional Director the following:

a. Report of Officials (NCUA 4501); and

b. Financial and Statistical Reports, (Forms FCU 109A, 109B, and 109F, or their equivalent) as of the commencement of business of the Federal credit union.

II—Conversion of a Federal Credit Union to a State Credit Union

A. General Requirements

Any Federal credit union may apply to convert to a state credit union. In order to do so, it must:

1. Comply with the requirements of the Federal Credit Union Act (section 125) that enable it to convert to a state credit union and to cease being a Federal credit union; and

2. Comply with applicable state law and the requirements of the state supervisory authority.

B. Special Provisions Regarding Federal Share Insurance

If the Federal credit union wants to continue Federal share insurance after the conversion to a state credit union, it must submit an Application for Insurance of Accounts (Form NCUA 9600) to the Regional Director at the time it requests approval of the conversion proposal. The Regional Director has the authority to approve or disapprove the Application.

If the converting Federal credit union does not want to continue Federal share insurance or if its application for continued insurance is denied, insurance will cease in accordance with the provisions of section 206 of the Federal Credit Union Act.

If, upon its conversion to a state credit union, the Federal credit union will be terminating all share insurance or converting from Federal to nonfederal share insurance, it must comply with the membership notice and voting procedures set forth in section 206 of the Federal Credit Union Act and Part 708 of NCUA's Rules and Regulations.

Where the state credit union will be nonfederally insured, Federal insurance ceases on the effective date of the conversion. If it will be *otherwise* uninsured, then Federal insurance will cease one year after the date of conversion subject to the restrictions in section 206(d)(1) of the Federal Credit Union Act. In either case, the state credit union will be entitled to a refund of the Federal credit union's NCUSIF capitalization deposit and any unused portion of the Federal insurance premium after the final date on which any of its shares are federally insured. The NCUA Board reserves the right to delay the refund of the capitalization deposit for up to one year if it determines that payment would jeopardize the NCUSIF.

C. Submission of Conversion Proposal to NCUA

Upon approval of a proposition for conversion by a majority vote of the board of directors at a meeting held in accordance with the Federal credit union's bylaws, the conversion proposal will be submitted to the Regional Director and will include:

1. A current financial report;
2. A current delinquent loan schedule;
3. An explanation and appropriate documents relative to any changes in insurance of member accounts;
4. A resolution of the board of directors;
5. A proposed Notice of Special Meeting of the Members (Form NCUA 4221);
6. A copy of the ballot to be sent to members (Form NCUA 4506);
7. Evidence that the state supervisory authority is in agreement with the conversion proposal; and
8. A statement of reasons supporting the request to convert.

D. Approval of the Proposal to Convert

1. *Review by the Regional Director.* The proposal will be reviewed to determine that it is complete and is in compliance with section 125 of the Federal Credit Union Act. The Regional Director may make further investigation into the proposal and require the submission of additional information to support the request.

2. *Conditions to the Approval.* The Regional Director will specify any special conditions that the credit union must meet in order to proceed with the conversion.

3. *Approval by the Regional Director.* The proposal will be approved by the Regional Director if it is in compliance with section 125 and, in the case where the state credit union will no longer be federally insured, the notice and voting requirements of section 206 of the Federal Credit Union Act.

4. *Notification.* The Regional Director will notify both the credit union and the state supervisory authority of the decision on the proposal.

E. Approval of Proposal by Members

Upon approval of the proposal by the Regional Director, the following actions will be taken by the board of directors:

1. The proposal must be submitted to the members for approval and a date set for a vote on the proposal. The proposal may be acted on at the annual meeting, at a special meeting for that purpose, or by written ballot to be filed by the date set for the vote.

2. Members must be given advance notice (NCUA 4221) of the meeting at which the proposal is to be submitted in accordance with the provisions of the Federal Credit Union Bylaws (Article V). The notice shall:

a. Specify the purpose, time and place of the meeting;

b. Include a brief and accurate statement of the reasons for and against the proposed conversion, including any effects it could have upon share holdings, insurance of member accounts, and the policies and practices of the credit union;

c. Inform the members that they have the right to vote on the proposal at the meeting, or by written ballot to be filed not later than the date and time announced for the annual meeting, or at the special meeting called for that purpose;

d. Be accompanied by a Ballot for Conversion Proposal (NCUA 4506); and

e. State in bold face type that the issue will be decided by a majority of members who vote.

3. A copy of the Notice of the meeting shall be delivered to the Regional Director at the same time that it is delivered to the members.

4. The proposed conversion must be approved by a majority of all of the members who vote on the proposal in order for the credit union to proceed further with the proposition. Ballots cast by members who did not attend the meeting but who submitted their ballots in accordance with (2.c.) above will be counted with votes cast at the meeting. In order to have a suitable record of the vote, the voting at the meeting should be by written ballot as well.

5. The board of directors shall, within 10 days, certify the results of the membership vote to the Regional Director. The statement shall be verified by affidavits of the Chief Executive Officer and the Recording Officer on Form NCUA 4505.

F. Compliance with State Laws

If the proposition for conversion is approved by a majority of all members who voted, the board of directors should then:

1. Ensure that all requirements of state law and the state supervisory authority have been accommodated;

2. Ensure that the state charter or the license has been received within 90 days from the date the members approved the proposal to convert;

3. Ensure that the Regional Director is kept informed as to progress toward conversion and of any material delay or of substantial difficulties which may be encountered.

If the conversion cannot be completed within the 90-day period, the Regional Director should be informed of the reasons for the delay.

G. Completion of Conversion

In order for the conversion to be completed, the following steps are necessary:

1. The board of directors will submit a copy of the state charter to the Regional Director within 10 days of its receipt. This will be accompanied by the Federal charter and the Federal insurance certificate. A copy of the financial reports (*Forms* FCU 109A and 109B) as of the preceding month-end should be submitted at this time.

2. The Regional Director will notify the credit union and the state supervisory authority in writing of the receipt of evidence that the credit union has been authorized to operate as a state credit union.

3. The effective date of conversion is the day immediately preceding the date on which the credit union became a state credit union. The credit union shall cease to be a Federal credit union as of the effective date.

4. If the Regional Director finds a material deviation from the provisions that would invalidate any steps taken in the conversion, the credit union and the state supervisory authority shall be promptly notified in writing. This notice may be either before or after the copy of the state charter is filed with the Regional Director. The notice will inform the credit union as to the nature of the adverse findings. The conversion will not be affected and completed until the improper actions and steps have been corrected.

5. Upon ceasing to be a Federal credit union, the credit union shall no longer be subject to any of the provisions of the Federal Credit Union Act, except as may apply if Federal share insurance coverage is continued. The successor state credit union shall be immediately vested with all of the assets and shall continue to be responsible for all of the obligations of the Federal credit union to the same extent as though the conversion had not taken place. Operation of the credit union from this point will be in accordance with the requirements of state law and the state credit union supervisory authority.

6. If the Regional Director is satisfied that the conversion has been accomplished in accordance with the approved proposal, the Federal charter will be canceled.

7. There is no requirement for closing the records of the Federal credit union at the time of conversion or for the manner in which the records shall be maintained thereafter, except that the

credit union shall no longer use the words "Federal Credit Union" in its name nor represent itself in any manner as being a Federal credit union.

8. If the state credit union is to be federally insured, the Regional Director will issue a new insurance certificate.

[FR Doc. 89-17501 Filed 7-26-89; 8:45 am]
BILLING CODE 7535-01-M

12 CFR Parts 701 and 741

Nonmember and Public Unit Accounts

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final rule.

SUMMARY: This final rule replaces the interim final rule on nonmember and public unit accounts issued by the NCUA Board in December of 1988. The final rule continues the requirement that federally-insured credit unions wish to maintain nonmember and public unit shares in excess of 20% of their total shares must submit a plan setting forth the intended use of the funds and request NCUA's approval. The rule includes the procedures and standards NCUA will use in evaluating the requests.

Also, the rule provides that NCUA will not approve a request from a federally-insured state-chartered credit union without first obtaining the concurrence of the appropriate state regulator.

EFFECTIVE DATE: July 27, 1989.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance, or Hattie M. Ulan Assistant General Counsel, at the above address or telephone: (202) 682-9640 (Mr. Riley) or 682-9630 (Ms. Ulan).

SUPPLEMENTARY INFORMATION:

Background

Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) authorizes a Federal credit union (FCU) to accept and maintain certain types of nonmember shares. Section 101(5) of the FCU Act (12 U.S.C. 1752(5)) defines "member account" to include the accounts of nonmember credit unions and the accounts of nonmember units of Federal, state, or local governments and the political subdivisions of such units. The term also includes, but only in the case of a credit union that serves predominatly low-income members and has received a low-income designation from NCUA, accounts of any nonmember. The terms "predominantly" and "low-income member" are currently defined in Section 700.1 of NCUA's Regulations (12 CFR 700.1). Concurrent with this final rule, the NCUA is issuing a proposed amendment adding a new § 701.32(d) to clairfy that FCU's must obtain a designation from NCUA prior to accepting nonmember shares pursuant to the low-income authority, and that federally-insured state-chartered credit unions (FISCU's) must receive such a designation from the appropriate state regulator with the concurrence of NCUA. The NCUA is also proposing to move the definitions of "predominantly" and "low-income members" to § 701.32(d).

On December 19, 1988, the NCUA Board published an interim final rule limiting to 20% of total shares the amount of public unit and nonmember accounts that may be maintained by FCU's and FISCU's without prior NCUA approval. (*See* 53 FR 50918.) Although the interim final rule was made immediately effective, the NCUA Board provided a 60-day comment period. The comment period was later extended for approximately 90 days to May 15, 1989. (*See* 54 FR 8280 2/28/89.)

Comments

One hundred and twenty-six comments were received. Fifty of the commenters were FCU's and nine were state-chartered credit unions. Thirty-nine of the commenters were community and religious organizations. Nine commenters were state credit union leagues. Five comments were from national credit union trade associations, and four commenters were other types of trade associations. Four of the commenters were state credit union regulators. Comments were also received from a local association of credit unions, a Congressman, and a county treasurer. Three comments were from individuals.

Discussion

The reaction of many of the commenters was that the rule was an overreaction to the potential losses to the National Credit Union Share Insurance Fund (NCUSIF) associated with the 1988 failure of the Franklin Community FCU. Commenters stated that other credit unions should not be penalized for the actions of one credit union. Some commenters believed that NCUA should not have made the rule immediately effective, that is, without a prior comment period. The reasons for the immediate action were set forth in the preamble to the interim rule.

Franklin Community FCU was only one of several cases involving the misuse of credit union, public unit, and other nonmember funds. The preamble to the interim final rule listed six credit unions other than Franklin where the misuse of such funds has resulted in losses to the NCUSIF. The interim final rule is not intended to penalize credit unions, but to ensure that nonmember and public unit shares are accepted and utilized by credit unions in a safe and sound manner and to further the interest of serving members. The commenters' belief that misuse of such funds is not a pervasive problem for credit unions is correct. It is, however, a costly problem when it occurs, and one that affects all federally-insured credit unions in two ways: Through losses to the NCUSIF, and loss in confidence in credit unions when public units and nonmembers suffer losses because their accounts are in excess of the share insurance limit.

The majority of the commenters objected to the interim final rule, stating that it was unduly harsh on community development and low-income credit unions. Many of these commenters were low-income designated and/or community development credit unions, and community and religious organizations that have accounts in these credit unions. The credit union commenters stated that the rule would affect their ability to make loans and may jeopardize their existence. The organizational commenters stated that they generally have accounts that earn below market rates in low-income credit unions to provide a source of funds for the poor and minorities, and that the rule would limit their altruistic goal.

The rule is not a prohibition on public unit and nonmember shares. All FCU's may continue to accept other credit union and public unit shares. FCU's with a low-income designation from NCUA may continue to accept nonmember shares. FISCU's may accept public unit, credit union, and nonmember shares to the extent permitted under the appropriate state law. The rule does, however, require federally-insured credit unions that wish to accept such shares in excess of 20 percent of total shares to submit to NCUA a reasonable plan setting forth the intended use of the funds and obtain NCUA approval.

The rule requires that a federally-insured credit union's plan describe how public unit and nonmember funds will be used to serve the credit union's membership, i.e., by providing loanable funds to its members or through increased earnings; provide for matching maturities of public unit and nonmember shares with corresponding assets, or a justification for any mismatch; and provide for an adequate income spread between public unit and nonmember shares and corresponding assets. The rule further requires that a credit union

submit its loan and investment policies and its latest financial statements to NCUA. These requirements should ensure that federally-insured credit unions have a reasonable plan in place for use of the funds. NCUA's Regional Offices will review the documentation submitted by a credit union from a safety and soundness perspective, including a review of asset-liability management and the nature of the proposed investments.

One of the primary objections to the interim final rule was that it applied to public unit, credit union, and nonmember shares earning below-market rates. Several commenters also objected to the rule's application to public unit shares and shares from other credit unions in general, and to the acceptance of public unit and nonmember shares by small credit unions. Other commenters objecting to the rule stated that it interferes with the Congressional intent of allowing designated low-income credit unions to accept nonmember shares as set forth in the FCU Act. Again, it should be stressed that the purpose of the rule is not to prohibit nonmember and public unit shares, but to ensure that such funds are used in a safe and sound manner and are utilized in the best interests of the membership.

The FCU must have a reasonable plan in place for the funds. The fact that nonmember and public unit shares are to be paid below-market rates does not alleviate the need for a plan for use of such funds, nor does the source of the funds or the size of the credit union accepting the funds. The risk of misuse of the funds is the same in each case. To exempt certain types of accounts or certain credit unions from the rule's coverage would be to suggest that a plan for the use of the funds is not necessary in these instances. This is not the case.

In a similar vein, several commenters requested that NCUA not adopt a final rule, but instead limit or prohibit the payment of commissions on the sale of market-rate share certificates. The rule is not directed at the method by which the credit unions obtain funds. The concern is with credit unions taking in large amounts of public unit and nonmember shares without a plan for their use. Acceptance of these funds can occur with or without the assistance of a broker. Other commenters suggested an abandonment of the rule until NCUA completes a comprehensive study of the rule's effect on low-income and community development credit unions. The Board does not believe this to be the proper approach since these credit unions can obtain an exemption to the 20% limitation.

One of the commenters suggested that NCUA require federally-insured credit unions to report nonmember shares to NCUA. This information is currently collected on FISCU's. NCUA intends to begin collecting this information on FCU's in December of 1989.

State Regulators

Three of the commenters, including two state regulators, believe that the rule interferes with the states' authority to regulate FISCU's. In the preamble to the interim final rule, the NCUA Board discussed the applicability of the rule to all federally-insured credit unions. The Board explained that it was necessary to include FISCU's since their acceptance of public unit and nonmember shares has the same effect on the NCUSIF as those accepted by FCU's, and therefore should be subject to the same requirements as FCU's. The Board noted further that the rule did not impose any additional costs or burdens on the states, nor did it affect the states' ability to discharge traditional state government functions. This continues to be the Board's position with respect to the final rule.

Since the Board believes the applicability of the rule to FISCU's is necessary, state involvement with the rule is provided. The final rule specifically requires concurrence by the state regulator for a FISCU to obtain a waiver from the 20% limitation.

CPA Audit Requirement

The interim final rule included a request for comment on the issue of whether all federally-insured credit unions that accept nonmember accounts should be required to obtain annual CPA audits and disclose the audits to the nonmember accountholders. A majority of the commenters objected to such a requirement. The NCUA Board has determined not to impose the requirement at this time. Legislation currently being considered by Congress would provide that NCUA require a CPA audit where the supervisory committee's audit is not performed, is inadequate, or where the credit union's recordkeeping is deficient. In light of the Congressional initiative on this issue and the comments received, the Board will not, at this time, impose a separate CPA audit requirement for credit unions accepting nonmember shares.

Changes Made to the Interim Final Rule

Section 701.32 Payments on Shares by Public Units and Nonmembers

The final rule includes the procedures that a Federal credit union seeking an exemption from the 20 percent limitation should follow, and further establishes the standards and guidelines that will be followed by the NCUA Regional Offices upon receipt of an exemption request. An exemption request will be acted upon by the Regional Office within 30 days after all necessary information is received from the applicant credit union. Credit unions may appeal an exemption denial to the NCUA Board through the Regional Director. Normally, an exemption will be granted for a two-year period. If a credit union has accepted nonmember funds pursuant to an exemption and the exemption period ends and is not renewed, nonmembers shares in excess of the 20% in the credit union will continue to be covered by the NCUSIF within applicable insurance limits. No new nonmember shares can be accepted. Nonmember share certificates in excess of the 20% will remain insured until maturity. They cannot be renewed. This information is contained in § 701.32(b) of the final rule.

Section 741.5 Maximum Public Unit and Nonmember Accounts

The final rule sets forth the procedure that will be followed when a FISCU seeks an exemption from the 20% limitation. The rule provides that the request should be submitted to NCUA in accordance with § 701.32, but will only be granted by NCUA if the appropriate state regulator concurs with the approval.

Effective Date

The Board believes that it is consistent with its responsibilities and in the best interests of the credit unions affected by this rule to make the rule immediately effective. The rule sets forth procedures a credit union is to follow to obtain an exemption from the 20% limitation, and imposes certain requirements on the Regional Directors when acting on these requests. The procedures will provide credit unions with the assurance that their requests are being treated uniformly. The rule further provides credit unions the right to appeal an adverse exemption decision to the NCUA Board. Only minor changes have been made to the substantive provisions contained in the interim final rule.

Regulatory Procedures

Regulatory Flexibility Act

This final rule impose a limitation on the amount of funds that a federally-insured credit union may accept in the form of public unit and nonmember accounts. However, the rule also provides a method for obtaining an exemption from the limitation upon a showing of need and ability to manage the funds in these accounts. For that reason, the NCUA Board certifies that this rule will not have a significant economic impact on a substantial number of small credit unions (those under $1 million in asset size). Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The rule contains one paperwork requirement: any credit union requesting an exemption from the 20% limitation must submit an explanation of the need to raise the limit, a plan for use of the funds, and copies of its lending and investment policies and its latest financial statements. The Office of Management and Budget has approved this paperwork requirement (OMB NO. 3133–0114, approved for use through 4/30/92).

Executive Order 12612

The rule applies to federally-insured state-chartered credit unions that accept public unit and nonmember accounts. The acts and practices subject to the rule have implications for the entire federally-insured credit union system and the NCUSIF, and are not unique to only one type of charter. The final rule provides for state involvement in the decision to grant a waiver from the 20% limitation for FISCU's.

List of Subjects in 12 CFR Part 701

Credit unions, public units, nonmember accounts.

List of Subjects in 12 CFR Part 741

Credit unions, Public units, Nonmember accounts.

By the National Credit Union Administration Board on July 20, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for Part 701 is revised to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789.

2. Section 701.32 is revised to read as follows:

§ 701.32 Payments on shares by public units and nonmembers.

(a) Authority. A Federal credit union may, to the extent permitted under section 107(6) of the Act and this Section, receive payments on shares, (regular shares, share certificates, and share draft accounts) from public units and political subdivisions thereof (as those term are defined in § 745.1) and nonmembers, including nonmember credit unions.

(b) Limitations. (1) Unless a greater amount has been approved by the Regional Director, the maximum amount of all public unit and nonmember accounts shall not, at any given time, exceed 20% of the total shares of the Federal credit union. A Federal credit union seeking an exemption from the 20% limit must submit to the Regional Director a written request including:

(i) The new maximum level of public unit and nonmember shares requested, either as a dollar amount or a percentage of total shares;

(ii) A plan concerning use of public unit and nonmember shares that includes:

(A) A statement of the credit union's need and intended use of additional public unit and nonmember shares;

(B) Provision for matching maturities of public unit and nonmember shares with corresponding assets, or justification for any mismatch; and

(C) Provision for adequate income spread between public unit and nonmember shares and corresponding assets.

(iii) A copy of the credit union's loan and investment policies;

(iv) A copy of the credit union's lastest financial statements.

(2) Where the financial condition and management of the credit union are sound and the credit union's plan for the funds is reasonable, there will be a presumption in favor of granting the request. When granted, exemptions will normally be for a two-year period. The Regional Director will provide a written explanation for an exemption that is granted for a lesser time period.

(3) The Regional Director will provide a written determination on an exemption request within 30 calendar days after receipt of the request. The 30 day period will not begin to run until all necessary information has been submitted to the Regional Director. All denials may be appealed to the NCUA Board in a timely manner. Appeals should be submitted through the Regional Director.

(4) Upon expiration of an exemption, nonmember shares currently in the credit union in excess of the 20% of total shares will continue to be insured by the National Credit Union Share Insurance Fund within applicable insurance limits. No new shares in excess of the 20% limit shall be accepted. Existing share certificates in excess of the 20% limit may remain in the credit union only until maturity.

(c) The limitations herein do not apply to accounts maintained in accordance with § 701.37 ("Treasury tax and loan depositaries; depositaries and financial agents of the Government").

PART 741—REQUIREMENTS FOR INSURANCE

3. The authority citation for Part 741 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1781, and 1789.

4. Section 741.5 is revised to read as follows:

§ 741.5 Maximum public unit and nonmember accounts.

Any credit union that is insured, or that makes application for insurance, pursuant to Title II of the Act, must adhere to the requirements of § 701.32 regarding public unit and nonmember accounts, provided it has the authority to accept such accounts. Requests by federally-insured state-chartered credit unions for an exemption from the 20% limitation of § 701.32 will be made and reviewed on the same basis as that provided in § 701.32 for Federal credit unions, provided, however, that NCUA will not grant an exemption without the concurrence of the appropriate state regulator.

[FR Doc. 89–17502 Filed 7–26–89; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 861

Military Airlift Command (MAC) and Military Traffic Management Command (MTMC) Commercial Airlift Safety Review Procedures

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: This amendment revises membership of the Commercial Airlift Review Board. Membership of the board is redefined to remain consistent with

DOD guidance. While the membership remains substantially the same, some modification was made to reflect changes in personnel, provide voting authority to a senior aircraft maintenance official and to identify additional nonvoting advisors who may participate when their expertise can be of value to the voting members.

EFFECTIVE DATE: July 27, 1989.

FOR FURTHER INFORMATION CONTACT: Colonel John R. Dumbroski, Director, DOD Air Carrier Survey and Analysis Office, DCS/Air Transportation, Headquarters, Military Airlift Command (HQ MAC/TRL), Scott AFB, IL 62225-5001. Telephone (618) 256-4801.

SUPPLEMENTARY INFORMATION: The Department of the Air Force determined that since the composition of the Commercial Airlift Review Board is an internal working procedure, publication of this amendment for public comment prior to adoption is impractical and unnecessary.

List of Subjects in 32 CFR Part 861

Air carriers, Aviation safety.

Therefore, 32 CFR Part 861 is amended as follows:

PART 861—MILITARY AIRLIFT COMMAND (MAC) AND MILITARY TRAFFIC MANAGEMENT COMMAND (MTMC) COMMERCIAL AIRLIFT SAFETY REVIEW PROCEDURES

1. The authority citation for Part 861 continues to read as follows:

Authority: 10 U.S.C. 8013; 10 U.S.C. 2640.

2. Section 861.6 is amended by revising paragraphs (d)(1)(i) through (d)(1)(xi) and adding paragraphs (d)(1)(xii) and (d)(1)(xiii) to read as follows:

§ 861.6 Board procedures.

* * * * *

(d) * * *

(1) * * *

(i) Chief of Staff, HQ MAC—senior member and voting member.

(ii) Senior Transportation Advisor, HQ MTMC—senior member and voting member.

(iii) Deputy Chief of Staff, Air Transportation, HQ MAC—voting member.

(iv) Director of Passenger Traffic, HQ MTMC—voting member.

(v) Director of Maintenance Engineering, HQ MAC—voting member.

(vi) Director of Inland Traffic, HQ MTMC—voting member.

(vii) Legal Representative—nonvoting advisor

(viii) Director, Air Carrier Survey and Analysis Office—nonvoting advisor/recorder.

(ix) Director, Passenger and Traffic Management, HQ MAC—nonvoting advisor.

(x) Director, Air Crew Standardization/Evaluation, HQ MAC—nonvoting advisor.

(xi) Federal Aviation Administration (FAA) Liaison, HQ MAC—nonvoting advisor.

(xii) Contract Representative, HQ MAC—nonvoting advisor.

(xiii) Other additional advisors of value to the Board's deliberation process—nonvoting advisors.

* * * * *

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-17541 Filed 7-26-89; 8:45 am]

BILLING CODE 3910-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6961]

Changes in Flood Elevation Determinations; Alabama, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATE: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of these notice of changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESS: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no now requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains.

PART 65—[AMENDED]

The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Jefferson	Unincorporated areas	June 10, 1989 and June 17, 1989, *Alabama Messenger.*	The Honorable David Orange, President, Jefferson County Board of Commissioners, Jefferson County Courthouse, 716 North 21st Street, Birmingham, AL 35263-0005.	June 2, 1989	010217
Connecticut: Fairfield	City of Stamford	July 10, 1989 and July 17, 1989, *The Advocate.*	The Honorable Thom Serrani, Mayor of the City of Stamford, Fairfield County, 888 Washington Boulevard, P.O. Box 10152, Stamford, CT 06904-2152.	June 23, 1989	090015C
Georgia: De Kalb	Unincorporated areas	July 13, 1989 and July 20, 1989, *Decatur-De Kalb News-Era.*	The Honorable Manuel J. Maloof, Chief Executive Officer, De Kalb County, 556 North McDonough, Decatur, GA 30030.	July 3, 1989	130065
Maine: Cumberland	Town of Scarborough	July 6, 1989 and July 13, 1989, *The Portland Press-Herald.*	The Honorable Carl L. Betterley, Town Manager, Cumberland County, P.O. Box 360, Scarborough, ME 04074.	June 21, 1989	230052D
Texas: Denton and Dallas	City of Lewisville	June 28, 1989 and July 5, 1989, *Lewisville Daily Leader.*	The Honorable Donny Daniel, Mayor of the City of Lewisville, Denton and Dallas Counties, 151 West Church Street, Lewisville, TX 75067.	June 21, 1989	480195

Issued: July 14, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-17562 Filed 7-26-89; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

Changes in Flood Elevation Determinations; Alabama, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator, has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency

Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

PART 65—[AMENDED]

The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Montgomery, Elmore, Autauga, (Docket No. FEMA-6954).	City of Montgomery	Apr. 7, 1989 and Apr. 14, 1989, *Alabama Journal.*	The Honorable Emory Folmar, Mayor, City of Montgomery, P.O. Box 1111, Montgomery, AL 36192.	Mar. 27, 1989	010174
Florida: Dade (Docket No. FEMA-6954).	Unincorporated areas	Apr. 6, 1989 and Apr. 13, 1989, *Miami Review.*	The Honorable Joaquin Avino, County Manager, Dade County, 111 NW. 1st Street, Suite 2910, Miami, FL 33128-1971.	Mar. 27, 1989	125098
Louisiana: St. Mary Parish (FEMA Docket No. 6942).	Town of Berwick	Nov. 18, 1988 and Nov. 25, 1988, *The Daily Review.*	The Honorable Everett S. Berry, Mayor of the Town of Berwick, P.O. Box 486, Berwick, LA 70342.	Nov. 3, 1988	220194B
Michigan: Wayne (Docket No. FEMA-6954).	Township of Canton	Apr. 12, 1989 and Apr. 19, 1989, *Community Crier.*	The Honorable Thomas Yack, Township Supervisor, Township of Canton, 1150 S. Canton Center Road, Canton, MI 48188.	Apr. 3, 1988	260219
Texas: Dallas (FEMA Docket No. 6950).	City of Garland	Feb. 10, 1989 and Feb. 17, 1989, *Garland Daily News.*	The Honorable Ruth Nicholson, Mayor of the City of Garland, Dallas County, P.O. Box 469002, Garland, TX 75046-9002.	Jan. 31, 1989	485471C
Texas: Denton (FEMA Docket No. 6940).	City of Denton	Oct. 12, 1988 and Oct. 19, 1988, *Denton Record-Chronicle.*	The Honorable Ray Stephens, Mayor of the City of Denton, 215 East McKinney Street, Denton, TX 76201.	Sept. 27, 1988	480194D

Issued: July 14, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-17563 Filed 7-26-89; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determination; Alabama et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
ALABAMA	
Bessemer (city), Jefferson County (FEMA Docket No. 6952)	
Valley Creek:	
Just upstream of 15th Street	*458
Just downstream of dam	*475
About 2,000 feet upstream of U.S. Highway 11	*484
Halls Creek:	
Just upstream of CSX Railroad	*456
About 400 feet upstream of 14th Avenue	*458
Unnamed Creek 38:	
Just upstream of 14th Avenue	*456
About 900 feet upstream of 14th Avenue	*458
Maps available for inspection at the City Hall, Building Department, 1800 Third Avenue, Bessemer, Alabama.	
Brighton (city), Jefferson County (FEMA Docket No. 6952)	
Valley Creek:	
Just downstream of Jaybird Road	*474
Just upstream of Harmer Street	*480
About 700 feet upstream of U.S. Highway 11	*484
Maps available for inspection at the City Hall, 3700 Main Street, Brighton, Alabama.	
Hueytown (city), Jefferson County (FEMA Docket No. 6952)	
Valley Creek:	
About 1,325 feet downstream of 13th Street	*456
About 660 downstream of 19th Street	*459
About 1,150 feet downstream of CSX Railroad	*464
Maps available for inspection at the City Clerk's Office, 1318 Hueytown Road, Hueytown, Alabama.	
Lipscomb (city), Jefferson County (FEMA Docket No. 6952)	
Unnamed Creek 43: Within community	*479
Maps available for inspection at the City Clerk's Office, 5512 Avenue H, Lipscomb, Alabama.	
Midfield (city), Jefferson County (FEMA Docket No. 6952)	
Valley Creek:	
About 300 feet downstream of New Wilkes Road	*493
About 350 feet downstream of Fairfield Street	*503
About 1,800 feet upstream of Fairfield Street	*508
Unnamed Creek 46:	
About 400 feet downstream of Collier Drive	*502
Just upstream of Collier Drive	*506
Maps available for inspection at the City Clerk's Office, 725 Bessemer Super Highway, Midfield, Alabama.	
Roosevelt City (city), Jefferson County (FEMA Docket No. 6952)	
Valley Creek:	
About 1,500 feet downstream of confluence of Unnamed Creek 44	*484
About 1,300 feet downstream of New Wilkes Road	*492
About 900 feet upstream of New Wilkes Road	*496
Maps available for inspection at the City Hall, 710 North 20th Street, Brimingham, Alabama.	
ARIZONA	
Casa Grande (city), Pinal County (FEMA Docket No. 6959)	
North Branch Santa Cruz Wash:	
Approximately 600 feet upstream of Burris Road	*1361
Approximately 500 feet downstream of Thornton Road	*1368
Approximately 450 feet upstream of Thornton Road	*1370
Upstream side of Pinal Avenue	*1383
At Trekell Road	*1386
Approximately 2,700 feet upstream of Trekell Road	*1390
Maps are available for review at City Hall, 300 E. Fourth Street, Casa Grande, Arizona.	
ARKANSAS	
Shannon Hills (City), Saline County (FEMA Docket No. 6949)	
Otter Creek:	
At the downstream corporate limits	*312
At the upstream corporate limits	*318
Shannon Hills Tributary:	
Approximately 0.27 miles upstream of Joan Drive	*330
At the confluence with Otter Creek	*313
Maps available for inspection at the City Hall, 10401 High Road East, Shannon Hills, Arkansas.	
CALIFORNIA	
Clearlake (City), Lake County (FEMA Docket No.: 6943)	
Burns Valley Creek:	
Just downstream of State Highway 53	*1401
Just upstream of State Highway 53	*1403
Approximatey 100 feet downstream of the City Corporate limits	*1422
Burns Valley Creek Overflow:	
Approximately 600 feet downstream of Redwood Street	*1348
Just upstream of Redwood Street	#1
Just upstream of Olympia Drive	#1
Approximately 100 feet upstream of Burns Valley Road	*1358
Maps are available for review at City Hall, 14360 Lakeshore Drive, Clearlake, California.	
CONNECTICUT	
Bridgeport (city), Fairfield County (FEMA Docket No. 6949)	
Rooster River:	
100 feet downstream of Brooklawn Avenue	*20
50 feet downstream of corporate limits	*37
Maps available for inspection at 45 Lyon Terrace, Bridgeport, Connecticut.	
FLORIDA	
Lee County (unincorporated areas) (FEMA Docket No. 6955)	
Gulf of Mexico:	
About 500 feet west of the intersection of Bonita Beach Road and Hickory Boulevard	*17
About 350 feet southeast of the intersection of Bonita Beach Road and Hickory Boulevard	*14
About 4,000 feet northwest of the intersection of Bonita Beach Raod and Bay Point Lane	*11
Maps available for inspection at the Division of Code Enforcement, 1735 Henry Street, Fort Myers, Florida.	
GEORGIA	
Ware County (unincorporated areas) (FEMA Docket No. 6952)	
Satilla River:	
About 3.7 miles downstream of U.S. Route 82	*84
Just downstream of U.S. Route 82	*88
Maps available for inspection at the Ware County Planning Department, 902 Grove Avenue, Waycross, Georgia.	
ILLINOIS	
London Mills (village), Fulton and Knox Counties (FEMA Docket No. 6952)	
Spoon River:	
About 1,100 feet downstream of State Route 116	*536
About 1,850 feet upstream of 2nd Street	*538
Tributary to Swegle Creek:	
Just upstream of State Route 116	*536
About 3,400 feet upstream of Fulton Street	*536
Maps available for inspection at the Town Hall Building, Water Street, London Mills, Illinois.	
IOWA	
Red Oak (city), Montgomery County (FEMA Docket No. 6952)	
Red Oak Creek:	
At mouth	*1034
Just upstream of levee	*1028
Just downstream of Summit Street	*1070
Shallow Flooding (ponding from interior damage):	
Just east of Burlington Northern railroad and about 2,000 feet north of West Oak Street	*1030
Just north of West Oak Street and just west of Burlington Northern railroad	*1030
Just north of West Oak Street and just east of Burlington Northern railroad	*1030
Shallow Flooding (overflow from Red Oak Creek):	
Just west of Burlington Northern railroad and just south of West Oak Street	*1028
Just east of Burlington Northern railroad and just south of Bridge Street	*1028
At Third Avenue about 300 feet west of West Sixth Street	*1021
At Broadway north of Coolbaugh Street	#1
Maps available for inspection at the City Administrator's Office, Red Oak, Iowa.	
NEW YORK	
Oneida (city), Madison County (FEMA Docket No. 6952)	
Oneida Creek:	
At Genesse Street	*444
Approximately 900 feet upstream of Genesse Street	*446
Maps available for inspection at the City Hall, 109 North Main Street, P.O. Box 550, Oneida, New York.	
OHIO	
Clermont County (unincorporated areas) (FEMA Docket No. 6952)	
Ohio River:	
At downstream county boundary	*504
At upstream county boundary	*509
Maps available for inspection at the Planning Commission, 76 South Riverside Street, Batavia, Ohio.	
PENNSYLVANIA	
Hatboro (borough), Montgomery County (FEMA Docket No. 6952)	
Pennypack Creek:	
Warminster Road	*201
Approximately 700 feet up stream of corporate limits	*213
Blair Mill Run:	
Corporate limits	*213
Approximately 250 feet upstream of Monument Avenue	*230
Blair Mill Run Tributary:	
Confluence with Blair Mill Run	*224
County Line Road	*248
Maps available for inspection at the Borough Building, 120 East Montgomery Avenue, Hatboro, Pennsylvania.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Tullytown (borough), Bucks County (FEMA Docket No. 6952)	
Delaware River:	
At upstream corporate limits	*12
At downstream corporate limits	*12
Franklin Basin: Entire shoreline located within Tullytown	*12
Manor Lake: Entire shoreline located within Tullytown	*13
Van Sciver Lake: Entire shoreline located within Tullytown	*13
Maps available for inspection at the Borough Hall, 500 Main Street, Tullytown, Pennsylvania 19007.	
TENNESSEE	
Nashville (City) and Davidson County (FEMA Docket No. 6955)	
North Fork Ewing Creek:	
About 3,000 feet upstream of Brick Church Pike	*515
About 1,450 feet downstream of Bellshire Drive	*522
Just downstream of Bellshire Drive	*529
Maps available for inspection at the Metropolitan Government of Nashville and Davidson County, Department of Public Works, Division of Engineering, 750 South 5th Street, Nashville, Tennessee.	
Shelby County (unincorporated areas) (FEMA Docket No. 6952)	
Johns Creek Lateral A:	
About 500 feet upstream of mouth	*297
About 2,700 feet downstream of Holmes Road	*306
About 550 feet upstream of Holmes Road	*317
About 2,650 feet upstream of Holmes Road	*321
Johns Creek Lateral AA:	
At mouth	*306
About 3,300 feet upstream of mouth	*316
Maps available for inspection at the Engineering Department, 160 N. Mid America Mall, Room 701, Memphis, Tennessee.	
TEXAS	
Longview (city), Gregg and Harrison Counties (FEMA Docket No. 6952)	
Gilmer Creek:	
At confluence with Grace Creek	*287
Approximately 740 feet downstream of Dam	*307
Ray Creek:	
Approximately .41 mile upstream of confluence with Grace Creek	*304
Approximately 200 feet upstream of Pliler Precise Road	*342
Elm Branch:	
At confluence with Ray Creek	*326
Downstream side of Amy Street	*363
Drain No. 1 (Upper Reach):	
Approximately 680 feet downstream of Loop 281	*368
Approximately 400 feet upstream of Loop 281	*389
Oakland Creek (Upper Reach):	
Approximately 350 feet downstream of U.S. Highway 259	*373
Approximately 300 feet upstream of U.S Highway 259	*380
Hawkins Creek:	
Approximately 900 feet upstream of George Richey Road	*322
At upstream corporate limits	*340
McCann Creek:	
Approximately 1,300 feet upstream of Gray Stone Road	*352
At upstream corporate limits	*358
Grace Creek:	
Approximately 100 feet downstream of Terry Road	*360
Approximately .26 mile upstream of Winding Way	*373

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Murry Creek:	
Approximately .56 mile above confluence with Oak Branch	*334
At upstream corporate limits	*341
Oak Branch:	
Approximately 0.6 mile above confluence of Murry Creek	*332
Approximately 450 feet upstream of corporate limits	*337
Maps available for inspection at the Public Works Department, City Hall, 300 West Cotton, Longview, Texas.	
Montgomery County (unincorported areas) (FEMA Docket No. 6948)	
Panther Branch:	
At confluence with Spring Creek	*113
Downstream face of MacDonald Road	*120
Spring Creek:	
At confluence of Panther Branch	*113
3.4 miles upstream of the confluence of Panther Branch	*121
Bear Branch:	
Approximately 1.68 miles upstream of confluence with Panther Branch	*147
Approximately 3.75 miles upstream of confluence with Panther Branch	*161
Maps available for inspection at the Department of Engineering, 326½ North Main, Conroe, Texas 77301./	
VIRGINIA	
Roanoke County (unincorporated areas) (FEMA Docket No. 6952)	
Barnhardt Creek:	
Downstream corporate limits	*1,058
Upstream corporate limits	*1,085
Maps available for inspection at the Roanoke County Administrative Center, 3738 Brambleton Avenue, Roanoke, Viginia 24018.	
WASHINGTON	
Cowlitz County (unincorporated areas), (FEMA Docket No. 6952)	
Lewis River:	
At confluence with the Columbia River	*23
Approximately 250 feet upstream of confluence with East Fork Lewis River	*26
Approximately 4.30 miles upstream of Interstate Highway 5 crossing	*37
Approximately 2.55 miles downstream of confluence of Johnson Creek	*43
At confluence of Johnson Creek	*55
At confluence of Husky Creek	*69
Approximately 1,000 feet downstream of Merwin Dam	*75
Maps available for review at the Department of Community Development, 207 Fourth Avenue North, Kelso, Washington.	

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: July 14, 1989.

[FR Doc. 89-17564 Filed 7-26-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-46; RM-5919; RM-6103]

Radio Broadcasting Services; Fountain, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 241A to Fountain, Colorado, as that community's first local broadcast service, in response to a petition for rule making filed by Express Communications. See 53 FR 7216, March 7, 1988. A mutually-exclusive proposal to allot Channel 241C2 to Pueblo, Colorado, as that community's eighth local FM service, as requested by Dr. Ronald A. Johnson (RM-5919), was withdrawn. Coordinates used for Channel 241A at Fountain are 38-41-00 and 104-41-54. With this action, the proceeding is terminated.

DATES: Effective September 5, 1989; The window period for filing applications on Channel 241A at Fountain, Colorado, will open on September 6, 1989, and close on October 6, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-46, adopted June 28, 1989, and released July 21, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Colorado, by adding Fountain, Channel 241A.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17508 Filed 7-26-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-459; RM-6330]

Radio Broadcasting Services; Battle Ground, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 254A to Battle Ground, Indiana, as that community's first local broadcast service, in response to a petition for rule making filed by Linda Kuenzie. Coordinates utilized for Channel 254A at Battle Ground are 40-31-09 and 86-50-56. With this action, the proceeding is terminated.

DATES: Effective September 5, 1989: The window period for filing applications on Channel 254A at Battle Ground, Indiana, will open on September 6, 1989, and close on October 6, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-459, adopted June 28, 1989, and released July 21, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Indiana, by adding Battle Ground, Channel 254A.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17510 Filed 7-26-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-379; RM-6354]

Radio Broadcasting Services; Havana and Madison, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission at the request of Ed Winton ("petitioner"), substitutes Channel 285C2 for Channel 285A at Havana, Florida, and modifies the license for Station WMLO(FM) to specify operation on the higher class channel, and substitutes Channel 274A for Channel 285A at Madison, Florida, and modifies the license for Station WOOP(FM) to specify the new channel at Madison. Channel 285C2 can be allotted to Havana in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.3 kilometers (9.5 miles) east to avoid a short-spacing to Station WOAB(FM), Channel 285A, Ozark, Alabama, and to unused Channel 287A at Chattahoochee, Florida. The coordinates for this allotment are North Latitude 30-34-43 and West Longitude 84-15-59. Channel 274A can be allotted to Madison, Florida in compliance with the Commission's minimum distance separation requirements. The coordinates for this allotment are North Latitude 30-28-06 and West Longitude 83-24-30. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 5, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-379, adopted June 28, 1989, and released July 21, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Florida is amended for Havana by removing Channel 285A and adding Channel 285C2, and for Madison by removing Channel 285A and adding Channel 274A.

Karl A. Kensinger,

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

[FR Doc. 89-17509 Filed 7-26-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB23

Endangered and Threatened Wildlife and Plants; Endangered Status for Four Florida Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status under the Endangered Species Act of 1973, as amended (Act), for four plants of central Florida: *Campanula robinsiae* (Brooksville bellflower), *Justicia cooleyi* (Cooley's water willow), *Liatris ohlingerae* (scrub blazing star), and *Ziziphus celata* (Florida ziziphus). All four plants are threatened by habitat loss due to residential and agricultural land development. *Justicia cooleyi* is also threatened by limestone mining. Only two small populations of *Ziziphus celata* are known to exist, so it is especially vulnerable to extinction. This rule implements the protection and recovery provisions afforded by the Act for these four plants.

EFFECTIVE DATE: August 28, 1989.

ADDRESSES: The complete file for this rule is available for inspection during normal office hours, by appointment, at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216.

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

Campanula robinsiae, 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 robinsiae* by Small (1926), who later transferred the plant to his new genus *Rotantha* (Small 1933). 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 (Missouri Botanical Garden), Steven Leonard (Florida Natural Areas Inventory), Stanwyn Shetler (Smithsonian Institution), 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 (R.P. Wunderlin, University of South Florida, personal communication 1985; N. Morin, personal communication 1987).

Campanula robinsiae is an annual herb with a slender taproot and slender, 4-angled stems 1 to 15 centimeters (0.4 to 6.0 inches) tall. The largest leaves are at the base of the plant, ovate to elliptic, about 6 millimeters (0.24 inch) long, and 5 millimeters wide. Leaves farther up the stem are narrower and shorter. Many of the flowers are cleistogamous (closed, self-pollinating) and inconspicuous. The chasmogamous (open, cross-pollinating) flowers are solitary with the sepals 1.0 to 2.5 millimeters (0.04 to 0.10 inch) long and the deep purple bell-shaped corolla 7 to 8 millimeters (0.28 to 0.31 inch) wide. Flowering is in March and April. The seeds are the smallest recorded for the North American members of *Campanula* (Shetler and Morin 1986). 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 robinsiae* 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.

Justicia colleyi, 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 is 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 to 8 millimeters (0.28 to 0.31 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 (0.47 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, sweetgum, live oak, laurel oak, pignut hickory, cabbage palm, flowering dogwood, and yaupon holly. The understory may contain many ferns, woodland grasses, and sedges. The area has long attracted botanists (Rollins and Howard 1987).

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 dwarf 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*), and 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 robinsiae* and *Justicia cooleyi* are on a portion 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 praries 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.

Liatris ohlingerae, scrub blazing star, is a perennial herb of the aster family (Asteraceae, also known as Compositae). It was first collected in 1922 in Highlands County, Florida, by John K. Small; it was also collected in 1922, southeast of Frostproof, Polk County, Florida, by Mrs. F.E. Ohlinger. Blake (1923) placed the plant in the blazing star genus, naming it *Lacinaria ohlingerae*, with the Frostproof site as the type locality. Small (1924) created a new genus for this plant, which became *Ammopursus ohlingerae*. Robinson (1934) reinstated scrub blazing star in the large genus of the blazing stars as *Liatris ohlingerae*, changing the genus name in keeping with adoption of *Liatris* as a conserved name under the International Code of Botanical Nomenclature. Gaiser's (1946) treatment of *Liatris* and Cronquist's (1980) floristic treatment of the aster family in the Southeast retain this plant in the genus *Liatris*, although Lakela (1964) argued in favor of reinstating *Ammopursus* as a genus of only one species. Cronquist gives three common names for *Liatris:* blazing star, gay feather, and button snakeroot. Members of the genus that are sold as cut flowers or as garden perennials are usually called blazing stars. Wunderlin et al. (1980c) mention "sand torch" as a name for *Liatris ohlingerae*.

Liatris ohlingerae is an erect, usually unbranched perennial herb, up to 1 meter (3 feet) tall. The leaves are very narrow, only 1 to 2.5 millimeters (0.04 to 0.10 inches) wide. The several flower heads are usually separated from each other on the stem; they are large compared to the rest of the genus, up to 2 centimeters (0.8 inch) broad and 3 centimeters (1.2 inch) from base to tips of the flowers. The flowers are bright

pinkish purple. The plant flowers from July through September and October (Kral 1983).

Liatris ohlingerae has been collected frequently because of its brilliant flowers. A study of the central Florida sand pine scrub by Christman (1988) shows 93 known localities for the plant (71 of them in Highlands County), with a geographic range from Lake Blue near Auburndale and Catfish Creek (north of Highway 60 east of Lake Wales) in Polk County (N. Bissett, The Natives, Davenport, Florida, personal communications 1988), south along the Lake Wales Ridge (and U.S. Highway 27) through Sebring to the Archbold Biological Station in Highlands County. The distribution of *Liatris ohlingerae* overlaps or encompasses the distributions of 10 federally listed plants of the scrub habitat, and it parallels especially closely the distributions of *Hypericum cumulicola* (endangered), *Polygonella basiramia* (endangered), and *Prunus geniculata* (endangered). A site at Archbold Biological Station is protected; a site as Saddle Blanket Lakes is being purchased by the State. A small site may be added to Highlands Hammock State Park. Sites in Arbuckle State Park and the adjoining Arbuckle State Forest (both recently acquired) are protected.

Liatris ohlingerae is restricted to sand pine scrub vegetation, a vegetation that is restricted to Florida and has its greatest floristic richness on the Lake Wales Ridge. Scrub vegetation occurs on excessively drained sand soils, usually on sites that, under presettlement conditions, were provided a degree of natural fire protection by a nearby lake or swamp (Christman 1988). Scrub vegetation is dominated by evergreen shrubs including oaks (such as the endemic *Quercus inopina*), with variable numbers of sand pine (*Pinus clausa*). Sandy open spaces between large shrubs are occupied by small shrubs such as *Conradina brevifolia* and *Dicerandra frutescens* (both members of the mint family, the latter federally listed as endangered), *Polygonella myriophylla* (of the buckwheat family), and numerous small herbs including *Bonamia grandiflora* (of the morning glory family, threatened), *Nolina brittoniana* (agave family), and a few grasses such as *Schizachyrium niveum* (a bluestem grass endemic to central Florida).

Christman (1988) lists 39 plant taxa that are virtually restricted to scrub vegetation. Of these taxa, 33 are present on the Lake Wales Ridge, which appears to have the greatest number of endemic plant species in any single habitat in Florida. The State's two other major regions of plant endemism are the Apalachicola lowlands in northwest Florida and tropical Dade and Monroe Counties. Florida has the greatest degree of plant endemism in eastern North America (Muller et al., in press).

Ziziphus celata, Florida ziziphus, was first collected by Ray Garrett in 1948 on sand dunes near Sebring; a second specimen was collected by Leonard J. Brass in the company of Garrett, presumably from the same locality. Garrett consulted with Erdman West and Lilian Arnold at the University of Florida, but neither could identify the plant. West had an illustration prepared.

Over the years, attempts were made to identify the shrub (which belongs to the family Rhamnaceae or buckthorns) and to relocate the shrub in the wild, with no success. Finally, Walter Judd noted the similarity of Garrett's specimen to several shrubs from the southwestern United States and Mexico. Judd and Hall (1984) proposed that Garrett's specimen represented a new species, which they named *Ziziphus celate*, most closely related to *Ziziphus obtusifolia* (lotebush, white crucillo, or gray thorn of the deserts of southern California, Arizona, New Mexico, Texas, and Mexico) and to *Ziziphus parryi* (California lotebush of southern California and Baja California) (Benson and Darrow 1981). Subsequently, Brass's specimen was found at the herbarium of the Archbold Biological Station, and the illustration prepared under West's direction was also found (Wunderlin et al. 1985).

In late July 1987, Kris R. DeLaney found a population of the Florida ziziphus in Polk County, Florida (Wunderlin et al. 1987). He found a second population in Highlands County in the fall of 1988, after extended searches funded by the Florida Nongame Wildlife Program (DeLaney et al., in press).

Ziziphus celata is a shrub up to 1.5 meters (5 feet) high. Stems occur in groups and appear to be interconnected by extensive root systems (DeLaney personal communication 1989). Branches are zigzagged and bear short, straight, spiny branchlets. Leaves are alternate, deciduous, with blades that are oblong-elliptic to obovate, dark glossy green above, lighter dull green beneath, 4.5 and 21 millimeters (0.18 to 0.83 inch) long, and 3 to 13 millimeters (0.12 to 0.5 inches) wide. Leaves have rounded tips, cuneate bases, and entire margins (Wunderlin et al. 1987). Flowers are axillary and solitary but appear fascicled. They have five sepals, which are green in color, and have five white petals somewhat clasping an equal number of stamens. The floral disc is thickened and surrounds the ovary (Judd and Hall 1984). The fruit is a drupe (DeLaney et al., in press). *Ziziphus celata* may be recognized in the field by its small, dark, glossy green, entire leaves on conspicuously zigzag spiny branches. Larger specimens tend to be covered with lichens (Wunderlin et al. 1987).

Only two populations of *Ziziphus celata* are known, despite intensive floristic surveys of the Lake Wales Ridge in recent years. The first site consists of about 30 stems in two groups on approximately two acres on the Lake Wales Ridge in Polk County. The site is on Avon Park Fine Sand, an excessively drained deep sand soil. The site appears to represent a transition between sand pine scrub vegetation and longleaf pine (*Pinus palustris*) vegetation with turkey oak (*Quercus laevis*). The site has evergreen oaks, *Carya floridana* (scrub hickory), *Bumelia tenax* (a buckthorn), *Prunus geniculata* (scrub plum, endangered), and many herbs, including *Berlandiera subacaulis* (a yellow daisy), *Bonamia grandiflora* (Florida bonamia, threatened), *Bulbostylis* sp. (a small sedge), *Liatris ohlingerae*, *Licania michauxii* (gopher apple), *Paronychia chartacea* (papery whitlow wort, threatened), and *Warea carteri* (Carter's mustard, endangered) (Wunderlin et al. 1987). The second population is larger.

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 the Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and of its intention thereby to review the status of the plant taxa it contained. On June 16, 1976, the Service published a proposed rule (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 robinsiae*, *Justicia cooleyi*, and *Liatris ohlingerae* were included in the Smithsonian Report; the July 1, 1975, notice; and the June 16, 1976, proposal.

On December 15, 1980, the Service published a notice of review for plants (45 FR 82480), which included *Campanula robinsiae* and *Liatris ohlingerae* as category 1 candidates (taxa for which data in the Service's

possession indicate listing is warranted). *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 robinsiae* as a category 2 candidate, based on uncertainty about the taxonomic status of the plant (Shetler 1963, Wunderlin et al. 1980a). *Justicia cooleyi* was treated as a category 1 candidate, based on a status report by Wunderlin et al. (1980b). An updated notice of review published on September 27, 1985 (50 FR 39526), maintained the three species as candidates in the same categories: *Campanula robinsiae*, category 2; *Justicia cooleyi* and *Liatris ohlingerae*, category 1. A letter from R. Wunderlin (*in litt.* 1985), received too late for the notice of review, suggested that recent field work on *Campanula robinsiae* had generated "sufficient information to prepare a proposal for listing the species as endangered." The listing of *Liatris ohlingerae* as an endangered species is based on the information available in 1980, augmented by field work conducted by Gary Schultz for the Florida Natural Areas Inventory and by Steven Christman (1988), plus recent information on the rate of development of the two counties.

In the September 27, 1985, notice of review, the newly-described *Ziziphus celata* was designated a category 2* candidate (the asterisk indicates that the taxon is possibly extinct). Subsequent discovery of another herbarium specimen and extant populations of the ziziphus have confirmed that this is a valid species that merits listing.

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 that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Campanula robinsiae*, *Justicia cooleyi*, and *Liatris ohlingerae*, 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 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.

On September 12, 1988 (53 FR 35215), the Service published a proposal to list *Campanula robinsiae* and *Justicia cooleyi* as endangered species. On September 28, 1988 (53 FR 37818), the Service published a proposal to list *Liatris ohlingerae* and *Ziziphus celata* as endangered species. The foregoing proposals constituted the final findings required for these species.

Summary of Comments and Recommendations

In the September 1988 proposed rules, all interested parties were requested to submit factual information that might contribute to the development of a final rule. Appropriate State of Florida agencies, county governments, Federal agencies, scientific organizations, and interested parties were contacted and requested to comment. Notices inviting public comment were published in "The Sun-Journal," Brooksville, for *Campanula robinsiae* and *Justicia cooleyi* (October 1, 1988), and in the "Polk County Democrat" (October 13, 1988) and the "Sebring News-Sun" (October 16, 1988) for *Liatris ohlingerae* and *Ziziphus celata*.

Comments were received from three State agencies, one Federal agency, two plant nurseries, and one private conservation organization.

The administrator of Withlacoochee State Forest (Division of Forestry, Florida Department of Agriculture and Consumer Service) requested further information on *Campanula robinsiae* and *Justicia cooleyi* and volunteered assistance in searching for populations of these species in the Forest (where neither species is currently known). The research leader at the U.S. Department of Agriculture, Subtropical Agricultural Research Station, provided additional information on the distribution of *Justicia* at the Station. He noted that current forage and livestock research at the Station appears compatible with protecting the habitat of *Justicia*, and possibly of *Campanula* (which they were not able to find this year).

The Florida Department of Agriculture and Consumer Services and the Florida Game and Fresh Water Fish Commission supported Federal listing of *Liatris ohlingerae* and *Ziziphus celata*.

Two horticulturists who operate native plant nurseries in Davenport, Florida, and in Aiken, South Carolina, commented on *Liatris ohlingerae* and *Ziziphus celata*. One (from Florida) noted that Liatris ohlingerae has been successfully grown from seed and established at a mine reclamation site. This horticulturist also noted that there is no great commercial demand for *Liatris* and that it is not a profitable crop. Both horticulturists took exception to the wording of the proposal's treatment of critical habitat. Only two or three specialized nurseries deal with rare Florida scrub plants, and none would consider digging endangered species from the wild, nor taking seeds or cuttings if it would jeopardize the plant. Both requested that the critical habitat wording be altered to avoid before-the-fact criticism of the nurseries, and one suggested that propagation, and those able to effect it, should be regarded in the final rule under "Available Conservation Measures" as being beneficial, rather than as a negative factor under "Summary of Factors Affecting the Species." The Service concurs that propagation by nurseries does not threaten these four species, and acknowledges the useful data and other assistance that nurseries have provided. The portions of the final rule dealing with critical habitat and the factors affecting the species have been altered to reflect these comments. However, the section dealing with available conservation measures only covers Federal measures specified in the Endangered Species Act, and does not include other actions that can be taken by states or private parties.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Campanula robinsiae*, *Justicia cooleyi*, *Liatris ohlingerae* and *Ziziphus celata* should be classified as endangered species. Procedures found at section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their applications to *Campanula robinsiae* Small (Brooksville bellflower), *Justicia cooleyi* Monachino & E. Leonard (Cooley's water-willow), *Liatris ohlingerae* (S.F. Blake) B. Robinson (scrub blazing star), and *Ziziphus celata* Judd & Hall (Florida ziziphus) 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 robinsiae* are in north central Hernando County, including Annutteliga 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 and associated holding ponds occupy at least 10 square miles. A residential subdivision occupies 26 square miles, including part of Annutteliga 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 during this 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). The proposed Suncoast Corridor tollroad, part of a Tampa-Jacksonville corridor, which would pass west of Brooksville, would encourage population growth in Hernando County.

Justicia cooley is native to hardwood forests 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, 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 a 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*.

Liatris ohlingerae is restricted to sand pine scrub vegetation on the Lake Wales Ridge and the nearby Auburndale area in Highlands and Polk Counties, Florida. Sand pine scrub vegetation occurs elsewhere in these counties and the rest of the State, but lacks *Liatris ohlingerae*. The Lake Wales Ridge is a major citrus producing area, and the towns along the Ridge are growing rapidly. In Highlands County, 64 percent of the xeric vegetation (scrub, scrubby flatwoods, and longleaf pine-turkey oak vegetation) present before settlement had been destroyed by 1981. An additional 10 percent of the xeric vegetation was moderately disturbed, primarily by building roads to create housing subdivisions (Peroni and Abrahamson 1985). Christman (1988), using different methodology, estimated that "ancient" scrub originally occupied about 80,000 acres on the Lake Wales, Lake Henry, and Winter Haven ridges; about two-thirds of the ancient scrub has been lost. Remaining tracts of scrub on the Lake Wales Ridge in Polk and Highlands counties are rapidly being developed for citrus groves, housing developments, and businesses (Christman 1988; Fred Lohrer, Archbold Biological Station, personal communication 1985; James Duane, Executive Director, Central Florida Regional Planning Council, personal communication 1988).

Many of the remaining stands of scrub are on vacant lots, patches of land isolated by railroad tracks, or other fragments of the original vegetation. Some of the few remaining large areas of scrub are found in subdivisions where lots were sold to absentee owners, but houses were not built. The fragmented land ownership, the difficulty of contacting landowners, and informal use of such subdivisions as trash dumps and recreation areas make conservation of the vegetation difficult. *Liatris ohlingerae* does not occur in federally owned sand pine scrub vegetation on the Avon Park Air Force Range. The plant does occur at these tracts owned by or being purchased by the State of Florida: Arbuckle State Park and Arbuckle State Forest in Polk County, Highlands Hammock State Park and the Saddle Blanket Lakes tract in Highlands County. It also occurs on the private Archbold Biological Station.

The relatively large number of known localities for *Liatris ohlingerae* is misleading. Because it has conspicuous flowers and is easily identified, it has been collected very frequently, much like *Polygonella myriophylla*, a distinctive species of the same habitat. Many of the known sites for the blazing star have already been destroyed, but no exact count is available. Although the blazing star is still locally abundant, most of the extant sites are small, and sites are disappearing very rapidly. For example, in January of 1988, Christman (personal communication 1988) prepared for The Nature Conservancy a list of ten sites that collectively could constitute a network of preserves for the central Florida scrub flora; by late March, three of the sites had changed hands, including one that had been considered relatively secure.

Ziziphus celata was first collected near Sebring at a site that has not been relocated, unless it is the site found in 1988 by DeLaney. One of the two known existing populations consists of about 30 stems. Most or all of the stems may be from a single rootstock. The site is privately owned. It was nearly destroyed in 1988 because the owner was required to clear the native vegetation in order to continue to qualify for an agricultural exemption from the usual property tax rate. The site is now temporarily protected (Wunderlin et al. 1987; R. Wunderlin, personal communication 1988). Property tax policies thus threaten this and other native plant species. DeLaney and Wunderlin, funded by the Florida Nongame Wildlife Program, searched for more populations in 1988 but found only one.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Justicia cooleyi* is not of interest as an ornamental (Robert McCartney, personal communication 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 *Justicia cooleyi*.

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

Liatris ohlingerae has been tested by a Dutch firm for cultivation as a cut flower because of its exceptionally large flower heads that are more pinkish than those of other members of the genus (S. Wallace, Bok Tower Gardens, personal communication 1988). This activity does not threaten the species, which is easily grown from seed. Although other members of the genus *Liatris* are popular in North America as garden perennials, this species does not appear to be threatened by present or foreseeable trade in native plants.

Ziziphus celata is one of the rarest shrubs in North America. Unrestricted scientific collecting or excessive visits could seriously affect the two populations.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms. Campanula*

robinsiae, Justicia cooleyi, and *Liatris ohlingerae* are listed as endangered by the Preservation of Native Flora of Florida Act (§ 581.185–187, Florida Statutes), which regulates taking, transport, and sale of plants but does not provide habitat protection. *Ziziphus celata* is proposed for addition to the State list by the Florida Legislature in 1989. Listing under the Act augments State and private conservation measures for these plants by providing for habitat protection through section 7 and recovery planning.

E. *Other natural or manmade factors affecting their continued existence.* Restriction to specialized habitats and to small geographic ranges tends to intensify any adverse effects on any rare plant. This is the case for *Campanula robinsiae, Justicia cooleyi,* and *Liatris ohlingerae,* and is exacerbated by the loss of habitat which has already taken place. *Ziziphus celata* may be threatened by loss of genetic diversity because the existing populations may consist of only a few clones (genets).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list these four plant species as endangered. Their limited remaining habitats and vulnerability to human activities indicate that all four species are in danger of extinction throughout all or significant portions of their ranges, and therefore fit the Act's definition of endangered.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these four plant species at this time. Federal, State and local agencies can be alerted to the presence of these species through the resources of the Florida Natural Areas Inventory and Regional Planning Councils, including geographic information systems that provide much more detailed information than critical habitat descriptions and maps. Publication of critical habitat descriptions and maps would increase the degree of threat from taking or vandalism. *Campanula robinsiae* is restricted to three sites that could easily be damaged by trampling or collecting. *Liatris ohlingerae* is an attractive plant that could be vulnerable to transplanting from the wild to home gardens. Live specimens of *Ziziphus celata* might be of interest to a limited number of hobbyists. Removal of attractive plants, or plant curiosities, from the wild by collectors and hobbyists has been a serious problem for many years in south Florida. In addition, efforts to conserve the scrub habitat of *Liatris ohlingerae, Ziziphus celata,* and other plant species have already provoked some landowners to preemptively destroy the vegetation. The Central Florida Regional Planning Council and other agencies are seeking to provide incentives for landowners to maintain scrub. Designating critical habitat could unduly alarm landowners, undermining these conservation efforts.

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. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

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

Most of the currently known sites for the four plant species are on privately owned land. The only known Federal ownership is for some populations of *Campanula robinsiae* and *Justicia cooleyi* on a U.S. Department of Agriculture research station, whose past management practices have been consistent with the needs of both species. The Station's staff knows of their presence. Both species also occur on protected State land. The currently known sites for *Liatris ohlingerae* are on private land, except for two owned by, or being purchased by the State. The two currently known sites for *Ziziphus celata* are on private land. The State of Florida is aware of the need to conserve both species. There is no Federal involvement currently on State or private lands in the area. Populations of *Liatris ohlingerae* that extend onto State-owned highway rights-of-way may be subject to Federal involvement if the U.S. Department of Transportation (Federal Highway Administration) should provide funds for maintenance or construction. Federal mortgage programs may be subject to section 7 review, including those of U.S. Department of Agriculture (Farmers Home Administration), Veterans Administration, and the U.S. Department of Housing and Urban Development (Federal Housing Administration loans). The supply of electricity to new housing developments may be subject to Federal involvement through the Rural Electrification Administration.

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, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it and reduce it to possession from areas under Federal jurisdiction. In addition, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction of listed plants on Federal lands and also prohibit removing, cutting, digging up, or damaging or destroying them in knowing violation of any State law or regulation, including State criminal trespass laws. 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. There is no commercial trade in *Campanula robinsiae, Justicia cooleyi,* or *Ziziphus celata,* and no known interstate commercial trade within the United States in *Liatris ohlingerae.* The Service

anticipates few, if any, requests for permits. Requests for copies of the regulations on plants and inquiries regarding them may be addresssed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203 (703/358–2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Service's Jacksonville Field Office (see "**ADDRESSES**" above).

Author

The primary author of this proposed rule is Mr. David Martin, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, 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).

Regulations Promulgation

PART 17—[AMENDED]

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

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

Authority: 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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, 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:						
Justicia cooleyi	Cooley's water-willow	U.S.A. (FL)	E	356	NA	NA
*	*	*	*			
Asteraceae—Aster family:						
*	*	*	*			
Liatris ohlingerae	Scrub blazing star	U.S.A. (FL)	E	356	NA	NA
*	*	*	*			
Campanulaceae—Bellflower family:						
Campanula robinsiae	Brooksville bellflower	U.S.A. (FL)	E	356	NA	NA
*	*	*	*			
Rhamnaceae—Buckthorn family:						
*	*	*	*			
Ziziphus celata	Florida ziziphus	U.S.A. (FL)	E	356	NA	NA
*	*	*	*			

Dated: June 12, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–17593 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 90515–9115]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces adjustments to the commercial ocean salmon management measures in the exclusive economic zone (EEZ) from Cape Falcon to Orford Reef Red Buoy, Oregon, beginning 0001 hours local time, July 18, 1989. For the subarea between Cape Falcon and Cascade Head, Oregon, a single daily landing limit per vessel of 50 coho salmon is established, and all loads which have been caught in this subarea must be landed north of Cascade Head. For the subarea between Cascade Head and Orford Reef Red Buoy, Oregon, a ratio restriction of 1 chinook salmon for every 2 coho salmon landed is established, the first 2 coho salmon may be landed without a chinook salmon, and all loads which have been caught in this subarea must be landed south of Cascade Head. The Director, Northwest Region, NMFS (Regional Director), has determined that the adjustments are necessary to prolong the all-species commercial seasons in these subareas and to provide for equitable distribution of harvest among Oregon ports. This action is intended to allow maximum harvest of ocean salmon quotas established for the 1989 season.

DATES: These inseason adjustments to the commercial management measures in the EEZ from Cape Falcon to Orford Reef Red Buoy, Oregon, are effective at 0001 hours local time, July 18, 1989. (The subarea from Cape Arago to Orford Reef Red Buoy, Oregon, is closed July 14–31 as regularly scheduled.) Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard notice-to-mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989). Public comments on this notice will be accepted through August 8, 1989.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director,

Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are published at 50 CFR Part 661. In its preseason notice of 1989 management measures (54 FR 19798, May 8, 1989), NOAA specified landing limits, landing boundaries, and ratio fisheries (restriction on the ratio of coho to chinook salmon which can be landed) for the commercial seasons for all salmon species in the subareas from Cape Falcon to Cascade Head, and from Cascade Head to Orford Reef Red Buoy, Oregon. NOAA also announced that the troll fishery from Cape Falcon, Oregon, to the U.S.-Mexico border would be limited to an overall preseason catch quota of 474,000 coho salmon. A subarea catch ceiling within the overall catch quota allows a catch of no more than 349,000 coho salmon south of Cascade Head, Oregon.

In accordance with the preseason notice, the commercial season between Cape Falcon and Cape Arago, Oregon, was closed for 3 days, July 15–17, when 75 percent of the commercial catch ceiling of 349,000 coho salmon south of Cascade Head, Oregon, was projected to have been reached (54 FR 30390, July 20, 1989). During this 3-day closure, an assessment was conducted to determine whether landing limits or ratio fisheries should be continued or imposed.

Based on the most recent catch rates, it is projected that more restrictive landing requirements would delay the attainment of the commercial coho catch quota and ceiling and prolong the allspecies commercial seasons between Cape Falcon and Orford Reef Red Buoy, Oregon, for 1–2 weeks. After the commercial coho quota or ceiling has been reached, fishing will continue in the affected subarea for all salmon species except coho salmon.

Consequently, NOAA issues this notice to establish the following landing limits, landing boundaries, and ratio fisheries effective 0001 hours local time, July 18, 1989. For the subarea between Cape Falcon and Cascade Head, Oregon, a single daily landing limit per vessel of 50 coho salmon is established, and all loads which have been caught in this subarea must be landed north of Cascade Head, Oregon. For the subarea between Cascade Head and Orford Reef Red Buoy, a ratio restriction of 1 chinook salmon for every 2 coho salmon landed is established, the first 2 coho salmon may be landed without a chinook salmon, and all loads which have been caught in this subarea must be landed south of Cascade Head, Oregon. The subarea from Cape Arago to Orford Reef Red Buoy, Oregon, is closed July 14–31 as regularly scheduled. This notice does not apply to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Oregon Department of Fish and Wildlife regarding these adjustments to commercial landing restrictions between Cape Falcon and Orford Reef Red Buoy, Oregon. The State of Oregon will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this federal action.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen was given prior to 0001 hours local time, July 18, 1989, by telephone hotline number (206) 526–6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 KHz. NOAA issues this notice of revised landing restrictions for the commercial salmon fishery in the EEZ from Cape Falcon to Orford Reef Red Buoy, Oregon, which was effective 0001 hours local time, July 18, 1989.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: July 21, 1989.

Joe D. Clem,

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

[FR Doc. 89–17533 Filed 7–24–89; 9:25 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 54, No. 143
Thursday, July 27, 1989

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, 705 and 741

Designation of Low Income Status

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Proposed amendments.

SUMMARY: Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) authorizes Federal credit unions "serving predominantly low income members" to receive share accounts from nonmembers. Some federally-insured state-chartered credit unions have comparable authority under state law. The purposes of this proposed amendment are to (1) clarify that a Federal credit union must receive a designation from NCUA to act pursuant to this authority; (2) establish procedures for granting and revoking the designation; and (3) establish that a federally-insured state-chartered credit union must receive a designation from its state regulator with the concurrence of NCUA.

DATE: Comments must be received by October 25, 1989.

ADDRESS: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Assistant General Counsel, at above address or telephone: 202/682-9630.

SUPPLEMENTARY INFORMATION: In general, credit unions accept shares only from their members. There are limited exceptions to this rule. Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) authorizes all Federal credit unions (FCU's) to accept shares from public units and other credit unions. Section 107(6) also authorizes FCU's "serving predominantly low-income members (as defined by the [NCUA] Board)" to accept shares from nonmembers. The NCUA Board has defined the terms "predominantly" and "low-income members" in paragraphs 700.1 (h) and (i) of the NCUA Regulations (12 CFR 700.1 (h) and (i)). As a matter of policy, FCU's serving predominantly low-income members pursuant to the FCU Act and the regulatory definitions have received a designation from the NCUA enabling them to accept nonmember shares. The designation process, although a longstanding practice, has never been set forth in the regulations. To eliminate any ambiguity, the Board proposes to add a new § 701.32(d) to its regulations to clarify that an NCUA designation is required. Also, to improve the organization of the rules, it is proposed that paragraphs 700.1 (h) and (i), which define the terms "low-income members" and "predominantly", be moved to new paragraphs 701.32(d) (2) and (3), respectively.

The amendment also provides that the designation may be removed upon notice to a Federal credit union by the Regional Director. The designation will be removed if the low-income requirements are no longer being met or for other good cause. Removal of the designation from a Federal credit union is appealable to the NCUA Board. Federal credit unions will be advised of their right to appeal. Appeals should be submitted through the Regional Director.

Some state credit union acts provide similar authority to state-chartered credit unions to accept nonmember shares based on service to predominantly low-income members. In the case of state-chartered credit unions that are insured by the National Credit Union Share Insurance Fund (NCUSIF), this proposed rule requires that the state credit union regulator make the designation under state law with the concurrence of the appropriate NCUA Regional Director. Because the risk of misuse of insured nonmember shares is borne by the NCUSIF, it is appropriate that NCUA concurrence be required. This requirement is set forth in a proposed amendment to § 741.5. Removal of the designation for a FISCU will be by the state regulator with the concurrence of the Regional Director. Any appeal rights of the FISCU will be determined by the state.

The NCUA Board also requests comment on the proper treatment of a credit union's existing nonmember shares in the event of removal of low-income designation. It is suggested that existing shares be grandfathered. No new shares could be accepted. Share certificates could be held until maturity but could not be renewed.

A conforming amendment is proposed to Part 705 of the regulations. Part 705 addresses the community development revolving loan program for credit unions. One of the requirements for a credit union participating in the program is that it meet the definitions of "predominantly" and "low-income members" or the applicable state standards for serving low-income members. The references to the definitions are changed as discussed above. A provision is added to § 705.3 stating that the credit union must have "a current designation as a low-income credit union pursuant to § 701.32(d)(1) of the NCUA Regulation or, in the case of a state chartered credit union, applicable state standards."

Regulatory Procedures

Regulatory Flexibility Act

This proposed amendment adds to the regulations the longstanding policy that credit unions wishing to accept nonmember shares (other than from public units or other credit unions) obtain a low-income designation from the NCUA or the appropriate state credit union regulator. Since this is not a new procedure, the Board has determined and certifies that, if adopted, it will not have a significant economic impact on a substantial number of small credit unions (those under $1 million in asset size). Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This proposed rule contains one paperwork requirement. Any credit union requesting a low-income designation must submit information to the NCUA or the appropriate sate credit union regulator showing that it meets the "predominantly" and "low-income" definitions under the NCUA Regulations or appropriate state standards. This requirement will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act. Written comments on this proposed rule should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports

Management Branch, New Executive Office Building, Room 3208, Washington, DC 20530, Attn: Mr. Waxman

Executive Order 12612

The proposed rule applies to federally-insured state-chartered credit unions that accept public unit and nonmember accounts. The acts and practices subject to the rule have implications for the entire federally-insured credit union system and the NCUSIF, and are not unique to any one type of charter. Accordingly, the proposed rule provides for NCUA concurrence in a state determination of a low-income designation for federally-insured state-chartered credit unions.

List of Subjects in 12 CFR Parts 700, 701, 705, and 741

Credit unions, Low income designation.

By the National Credit Union Administration Board on July 20, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulations as follows:

PART 700—DEFINITIONS

1. The authority citation for Part 700 is revised to read as follows:

Authority: 12 U.S.C. 1752, 1757(6), 1766.

§ 700.1 [Amended]

2. Paragraphs 700.1 (h) and (i) are removed and paragraphs 700.1 (j), (k) and (l) are redesignated as paragraphs 700.1 (h), (i) and (j), respectively.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

3. The authority citation for Part 701 is revised to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1766, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798. Section 701.31 is also authorized by 12 U.S.C. 3601–3610.

4. Section 701.32 is amended by revising the heading and adding a new paragraph (d) to read as follows:

§ 701.32 Payments on shares by public units and nonmembers, and low-income designation.

* * * * *

(d) *Designation of low-income status.* (1) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) authorizes Federal credit unions serving predominantly low-income members to receive shares, share drafts and share certificates from nonmembers. In order to utilize this authority, a Federal credit union must receive a low-income designation from its NCUA Regional Director. The designation shall be reviewed at the credit union's annual examination or such other time as may be appropriate, and may be removed by the Regional Director upon notice to the Federal credit union if the definitions set forth in paragraphs (d) (2) and (3) of this section are no longer met or for other good cause. Removals may be appealed to the NCUA Board in a timely manner. Appeals should be submitted through the Regional Director.

(2) The term "low-income members" shall include those members whose annual income falls at or below the lower level standard of living classification as established by the Bureau of Labor Statistics and as updated by the Employment and Training Administration of the U.S. Department of Labor; those members who are residents of a public housing project who qualify for such residency because of low income; those members who qualify as recipients in a community action program; and those members who are enrolled as full-time or part-time students in a college, university, high school, or vocational school.

(3) The term "predominantly" is defined as a simple majority.

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

5. The authority citation for Part 705 continues to read as follows:

Authority: Pub. L. 97–35, 95 Stat. 498; Pub. L. 99–609, note to 42 U.S.C. 9822.

6. Section 705.3 is revised to read as follows:

§ 705.3 Definition.

For purposes of this part, a "participating credit union" means a state- or federally-chartered credit union that is specifically involved in stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership meets the definitions of "predominantly" and "low-income members" as found in §§ 701.32 (d)(2) and (d)(3) of the NCUA Regulations (excluding students), or applicable state standards as reflected by a current designation as a low-income credit union pursuant to § 701.32(d)(1) or § 741.5(b) of the NCUA Regulations or, in the case of a state chartered non-federally insured credit union, under applicable state standards; and has submitted an application and has been selected for participation in the Program in accordance with this Part.

PART 741—REQUIREMENTS FOR INSURANCE

7. The authority citation for Part 741 continues to read as follows:

Authority: 12 U.S.C. 1766, 1781, and 1789.

8. Section 741.5 is revised to read as follows:

§ 741.5 Maximum public unit and nonmember accounts, and low-income designation.

Any credit union that is insured, or that makes application for insurance, pursuant to Title II of the Act must:

(a) Adhere to the requirements of § 701.32 regarding public unit and nonmember accounts, provided it has the authority to accept such accounts. Requests by federally-insured state-chartered credit unions for an exemption from the 20% limitation of § 701.32 will be made and reviewed on the same basis as that provided in § 701.32 for Federal credit unions, provided, however that NCUA will not grant an exemption without the concurrence of the appropriate state regulator.

(b) Obtain a low-income designation in order to accept nonmember accounts, other than from public units or other credit unions, provided it has the authority to accept such accounts under state law. The state regulator shall make the low-income designation with the concurrence of the appropriate Regional Director. The designation will be made and reviewed by the state regulator on the same basis as that provided in § 701.32(d) for Federal credit unions. Removal of the designation by the state regulator for such credit unions shall be with the concurrence of NCUA.

[FR Doc. 89–17503 Filed 7–26–89; 8:45 am]
BILLING CODE 7535–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6962]

Proposed Flood Elevation Determinations; Alabama et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures

that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATE: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents. Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flooplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	City of Brewton, Escambia County.	May Branch	Just upstream of CSX railroad	None	*79
			Just downstream of Forest Hill Drive Dam	None	*101
			Just upstream of Forest Hill Drive Dam	None	*109
			About 1,200 feet upstream of Forest Hill Drive Dam	None	*110
		Franklin Mill Creek	About 100 feet downstream of CSX Railroad	None	*69
			About 3,400 feet upstream of Booth Boulevard	None	*91
		King Branch	About 2,900 feet downstream of CSX Railroad	*93	*93
			About 800 feet downstream of CSX Railroad	*101	*95
			About 300 feet upstream of CSX Railroad	*106	*106
Maps available for inspection at the City Hall, Brewton, Alabama. Send comments to The Honorable Ted Jennings, Mayor, City of Brewton, City Hall, P.O. Box 368, Brewton, Alabama 36427.					
Arkansas	Jacksonport, Town, Jackson County.	White River	Ponding area on landward side of White River levee at upstream corporate limits.	*232	*222
			Ponding area on landward side of White River levee at downstream corporate limits.	*231	*222
Maps available for inspection at the Town Hall, Jacksonport, Arkansas. Send comments to The Honorable Harry Grizzle, Mayor of the Town of Jacksonport, Jackson County, P.O. Box 85, Jacksonport, Arkansas 72075.					
Kentucky	Unincorporated Areas of Floyd County.	Levisa Fork	At downstream county boundary	*624	*623
			About 1.2 miles upstream of State Highway 979	*662	*666
		Abbott Creek	At mouth	*635	*634
			Just downstream of Little Abbott Creek Road	*635	*635
		Beaver Creek	At mouth	*646	*651
			About 1.96 miles upstream of mouth	*651	*651
		Mud Creek	At mouth	*660	*664
			About 4.66 miles upstream of mouth	*664	*664
Maps available for inspection at the Courthouse Annex Building, West Minister Street, Suite 109, Prestonsburg, Kentucky. Send comments to The Honorable John M. Stumbo, Judge Executive, Floyd County, West Minister Street, Courthouse Annex Building, Suite 109, Prestonsburg, Kentucky 41653.					
Oklahoma	McAlester, City, Pittsburg County.	Tributary C	Approximately 410 feet downstream of Missouri Kansas Texas Railroad.	*643	*642
			Approximately 500 feet downstream of Pierce Avenue	*662	*663

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Hall, 1st and Washington, McAlester, Oklahoma. Send comments to The Honorable Randy Green, Manager of the City of McAlester, Pittsburg County, P.O. Box 578, McAlester, Oklahoma 74501.					
Washington	Benton (Unincorporated Areas).	Zintel Canyon	Approximately 400 feet northeast of the intersection of East 19th Avenue and Washington Street.	*378	*376
			Approximately 1,200 feet west of the intersection of East 23rd Street and South Gum Street.	*368	*368
			At the intersection of East 27th Avenue and South Myrtle Street.	*368	*366
			At the intersection of East 19th Avenue and South Oak Street.	*368	*366
Maps available for review at the Benton County Planning Department, 620 Market Street, Prosser, Washington. Send comments to The Honorable Robert J. Drake, Sr., Chairman, Benton County Board of Commissioners, P.O. Box 190, Prosser, Washington 99350.					

Issued: July 14, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 17565 Filed 7-26-89; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB31

Proposed Endangered or Threatened Status for Five Plants From the Southern San Joaquin Valley

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973 (Act), as amended, for four plants: *Caulanthus californicus* (California jewelflower), *Eremalche kernensis* (Kern mallow), *Lembertia congdonii* (San Joaquin wooly-threads), and *Opuntia treleasei* (Bakersfield cactus). The Service also proposes threatened status for one plant, *Eriastrum hooveri* (Hoover's wooly-star).

These species are restricted to grassland and adjacent plant communities (valley sink scrub, valley saltbush scrub, and juniper woodland) in the southern San Joaquin Valley, California, and neighboring foothills and valleys. The five plants have been variously affected and are threatened by one or more of the following: urbanization, conversion of native habitat for agriculture (ag-land conversion) and related water development, oil and gas development and exploration, livestock grazing, competition from alien plants, utilization of habitat for ground-water recharge basins or for disposal of agricultural effluent or runoff, flood control projects, off-road vehicle use, mining, alteration of the natural fire regime, poor air quality, and stochastic extinction by virtue of the small isolated nature of the remaining populations. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for these plants. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 25, 1989. Public hearing requests must be received by September 11, 1989.

ADDRESS: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Endangered Species Office, 2800 Cottage Way, Room E-1823, Sacramento, California 95825. 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. Gail C. Kobetich, Field Supervisor, at the above address (916/978-4866 or FTS 460-4866).

SUPPLEMENTARY INFORMATION:

Background

Caulanthus californicus, Eremalche kernensis, Eriastrum hooveri, Lembertia congdonii, and *Opuntia treleasei* are endemic to grassland and adjacent plant communities [valley sink scrub, valley saltbush scrub, and juniper woodland (cf. Holland 1986)] of the southern San Joaquin Valley and neighboring foothills and valleys of California. This portion of the San Joaquin Valley, often referred to as the Tulare Lake Basin, contains roughly 2.5 million acres of nearly flat, valley floor. If the neighboring valleys (i.e., Carrizo Plain, Cuyama Valley) and foothills are included with the Tulare Lake Basin, prehistoric grassland and adjacent plant communities likely totaled over 6 million acres. However, 96 percent of the native habitats of the valley floor has been lost principally to urbanization and ag-land conversion (Richard Anderson, California Energy Commission, pers. comm, July 21, 1987). The remaining non-urbanized or non-converted lands have been subject to livestock grazing, water development, oil and gas development and exploration, off-road vehicle use, mining, and/or other anthropogenic actions.

The prehistoric composition of the native grasslands and adjoining plant communities likely will remain a mystery (Brown 1982), although numerous authors have speculated as to the composition of the "pristine" flora of the Central Valley, inclusive of the San Joaquin Valley and Tulare Lake Basin (Clements 1934, Munz and Keck 1950, Biswell 1956, Twisselmann 1956, White 1967, McNaughton 1968, Bakker 1971, Ornduff 1974, Heady 1977, Bartolome and Gemmill 1981, and Wester 1981). Alien, annual grasses and forbs invaded the low-elevation, plant communities of California during the days of the Franciscan missionaries. Today, these grasses, which account for 50 to 90 percent of the vegetative cover (Heady 1956) and can stand up to a meter in height (Holland 1986), dominate most grasslands in California. Alien grasses have outcompeted the native flora throughout much of California because these exotics germinate in late fall prior to the germination of the native forbs,

including the four herbaceous species proposed herein (*Caulanthus californicus, Eremalche kernensis, Eriastrum hooveri,* and *Lembertia congdonii*). Consequently, these four herbs generally occupy sites with reduced grass cover. Although the stem succulent proposed herein (*Opuntia treleasei*) persists in areas largely dominated by alien plants (mostly annual grasses), the cactus does not necessarily prefer such "grassy" sites. The invasion of grasses has been quite thorough throughout much of the lower elevation portions of California. These exotics likely compete for nutrients and water, and may further threaten *Opuntia treleasei* by providing abundant fine (thin, slender) fuels, which probably increase the frequency and intensity of wildfires affecting the species' habitat.

The five plant taxa largely persist today in three native plant communities adjoining the non-native annual grasslands; valley sink scrub, valley saltbush scrub, or juniper woodland. However, these plant communities too have been affected somewhat by the presence of alien grasses. Valley sink scrub is an open to dense shrubland dominated by alkali-tolerant plants of the goosefoot family (Chenopodiaceae, so-called "chenopods"), like iodinebush (*Allenrolfea occidentalis*) and sea-blite (*Suaeda* spp.). This plant community, which generally lacks or produces a sparse understory of herbs, occurs about the margins of playas and on the heavy clays of the valley floor. Valley sink scrub essentially has been lost due to ag-land conversion, flood control projects, and ground water pumping (Holland 1986). Valley saltbush scrub, a scrubland of chenopods over a low understory of annual herbs, typically occurs on the gentle, rolling hills surrounding the Tulare Lake Basin on sandy to loamy soils. Similar activities, including oil and gas exploration and development, have adversely affected and threaten this plant community (Holland 1986). Juniper woodland, a compact woodland of California juniper (*Juniperus californicus*), often adjoins grassland sites immediately above the valley floor on gentle sloping terraces. Livestock grazing is the prdominant activity influencing this community.

Discussion of the Five Species Proposed Herein for Listing Follows

Caulanthus californicus (California jewelflower) evidently was first collected by Mrs. A.E. Bush near Tulare, although the date and repository of this specimen are known (Taylor and Davilla 1986). Serano Watson, citing the Bush collection as the type, described the plant as *Stanfordia californica* in 1880. Although E.L. Greene (1891) had placed most species of *Caulanthus* within the genus *Streptanthus*, Edwin Payson (1923) transferred the species to the former genus. Dean Taylor and William Davilla (1986) discussed in detail the appropriate generic assignment for the jewelflower and concurred with I.A. Al-Shehbaz (1973) that the monotypic genus *Stanfordia* should be submerged within *Caulanthus. C. californicus*, a rosette-forming annual herb of the mustard family (Brassicaceae), grows to about 1 foot in height and produces several flowering branches. The leaves of the species have dry, wavy margins while its non-rosette leaves clasp the stem. The flowers are translucent white with purple to green tips. Its sword-shaped siliques (narrow, many-seeded pods) attain a length of 1 inch and width of about ¼ inch. The shape and size of siliques, together with an absence of hairs and an inflated stem, separate *C. californicus* from its closest relatives: *C. coulteri* var. *coulteri, C. coulteri* var. *lemmonii,* and *C. inflatus*. The species historically was distributed within the general area bounded by the present-day cities or communities of Coalinga and Fresno in Fresno County, New Cuyama in Santa Barbara County, and Bakersfield in Kern County (Taylor and Davilla 1986). Previously known from 40 sites, the plant now exists as one introduced population in Kern County and two natural populations (one in Santa Barbara County and another in San Luis Obispo County). The species was not known to occur naturally at the latter site. A recent status survey (Taylor and Davilla 1986) reported that intensive livestock grazing, ag-land conversion, and other anthropogenic activities likely extirpated *Caulanthus californicus* from Fresno, Kings, and Tulare Counties.

Eremalche kernensis (Kern mallow) was first collected by Carl Wolf in the Temblor Valley about 7 miles northwest of McKittrick along the Lost Hills Road in Kern County in 1937. Using his collection as the type, Wolf described *E. kernensis* in 1938. Although Phillip Munz (1959) at first placed all *Eremalche* in *Malvastrum* in his flora of California, he later concurred with the use of *Eremalche* for the California taxa in his supplement (Munz 1968). The species, a small annual harb of the mallow family (Malvaceae), typically develops an erect (rarely decumbent to prostrate) stem about 2 to 4 inches in height. The plant produces white to rose-pink or lavender, hollyhock-like flowers (Taylor and Davilla 1986). Although other characters (i.e., flower color, shape of the calyx lobes, flower size) have been employed in the past (Wiggins 1951, Munz 1959, Leonelli 1986), differences in leaf shape, pubescence (hair type and density), color-spotting on the petal, and number of carpels (seed-bearing organs) per flower separate *E. kernensis* from other members of the genus. Contrary to Thomas Kearney (1959) and Robert Hoover (1970), Taylor and Davilla (1986) concluded that the species was valid and that morphologically similar plants often confused with *E. kernensis* were actually male-sterile *E. parryi*. Restricted to the eastern base of the Temblor Range, the species ranges from the vicinity of McKittrick to near Buttonwillow within valley saltbush scrub in Kern County (Taylor and Davilla 1986). Oil and gas development likely extirpated the species at the type locality while ag-land conversion probably eliminated one other population of *E. kernensis*. Because the remaining four populations exist near active oil and gas fields or in the vicinity of transmission corridors (Taylor and Davilla 1986), further oil and gas development in the area or transmission line maintenance or expansion likely would threaten these sites. The species, to a lesser degree, may be affected by ag-land conversion, livestock overgrazing, exotic plant competition, and off-road vehicle use.

Eriastrum hooveri (Hoover's wooly-star) was evidently first collected in 1935 by Gregory Lyons near Little Panoche Creek in Fresno County. However, Willis Jepson (1943), in describing the plant as *Huegelia hooveri*, cited a 1937 collection by Robert Hoover (the namesake for the specific epithet) as the type. Later Herbert Mason (1945) transferred the species along with the rest of the wooly-stars to *Eriastrum. E. hooveri*, an annual herb of the phlox family (Polemoniaceae), produces many wire-like branches and small (about ¼ inch across), white flowers. Standing about 2–3 inches tall, the species has grayish, fuzzy stems and is often branched (Taylor and Davilla 1986). Primarily flower size, and the ratio of corolla tube to the length of petal lobes separate the species from other *Eriastrum*, although stamen characteristics play a secondary role (Taylor and Davilla 1986). *E. hooveri* was historically distributed in the Temblor Range (Kern and San Luis Obispo Counties), Cuyama Valley (San Luis Obispo and Santa Barbara Counties), and in a discontinuous fashion within valley saltbush scrub and valley sink scrub from Fresno County south in the San Joaquin Valley (Taylor and Davilla 1986). Reportedly the

species never grew around the borders of the historic Tulare Lake (Kings County). Today, however, 24 percent of the historical and extant populations of the species, including the type locality (7 miles south of Shafter in Kern County), has been extirpated by various habitat modifications (Taylor and Davilla 1986). Ag-land conversion, urbanization, conversion of habitat "for ground-water recharge basins or disposal of nutrient-agricultural effluent", and oil and gas development threaten the remaining populations of the species (Taylor and Davilla 1986).

Lembertia congdonii (San Joaquin wooly-threads) was first collected by J.W. Congdon near Deer Creek in Tulare County. Using the Deer Creek collection as the type, Asa Gray described the species in 1883. Greene placed the plant in his newly-created, monotypic genus *Lembertia* in 1897. Although subsequent floras (i.e., Munz 1959, Abrams and Ferris 1960) included this species in the genus *Eatonella*, Taylor (1987) maintains that the species is sufficiently different from *Eatonella* and other relatives to warrant placement within a monotypic genus. This annual herb, a member of the sunflower family (Asteraceae), produces several, frequently-branching stems arising from the base. These white-wooly stems grow to about 10 inches in length and often trail on the ground. Aside from differences in growth habit, disk and ray flowers, and other minor characters, the presence of dimorphic achenes (one-seeded, indehiscent fruit) separate *L. congdonii* from its closest relative, *Eatonella nivea* from the Great Basin (Taylor 1987). Associated with valley saltbush scrub, only 12 populations of *L. congdonii* remain in the San Joaquin Valley and adjoining foothills from the vicinity of Panoche Pass (San Benito County) southeasterly to Caliente Creek east of Bakersfield (Kern County) (Taylor 1987). Another seven populations occur to the southwest in the Cuyama Valley (San Luis Obispo and Santa Barbara Counties) and Carrizo Plain (San Luis Obispo County. Primarily as a result of ag-land conversion, 33 populations or 63 percent of the 52 historical and extant populations of the species have been lost (Taylor 1987). Ag-land conversion, urbanization, gravel and sand extraction, oil and gas development, continued overgrazing, and off-road vehicle use threaten the remaining stands of *L. congdonii*.

Opuntia treleasei (Bakersfield cactus) evidently was first collected east of the community of Caliente in Kern County by William Trelease in 1892. After cultivating this collection in the Missouri Botanical Garden, John Coulter (1896) described the species using this garden material as the type. James Toumey in Bailey's Cyclopedia of Horticulture combined the species as a variety of the widespread *O. basilaris* in 1901. David Griffiths and Raleigh Hare described the long-spiny form of the species from along the Kern River bluffs as *O. treleasei* var. *kernii* in 1906. Although Munz (1959) and Lyman Benson (1969 and 1982) continued to treat the Bakersfield cactus as *O. basilaris* var. *treleasei*, recent work by Charlotte Chamberlain (U.S. Corps of Engineers 1986) concluded that the *O. treleasei* is morphologically distinct from *O. basilaris*. *O. treleasei*, a low-growing cactus (Cactaceae) that typically spreads to form extensive thickets, generally develops beavertail-like pads (flattened stems) 3 to 4 inches wide by 5 to 7 inches long. The areoles (eye-spots) are never depressed but flush with the pad surface or somewhat raised. All areoles have spines, although they vary in number and length. Unlike *O. basilaris*, the surface of the pads, which are nearly cylindrical at the base, is not papillate (covered with numerous small protuberances). Although the large magenta flowers of *O. treleasei* appear identical to *O. basilaris*, the characters cited above clearly separate these two taxa as species. Found chiefly within annual grassland on sandy to sandy-loam soils, the species historically grew atop the low hills northeast of Oildale southeasterly along the valley floor to the low foothills of the Tehachapi Mountains southeast and south-southwest of Arvin in Kern County. Charles Preuss, John C. Fremont's cartographer, wrote of this area in 1844, that "[t]he hilly country is bleak, without any vegetation except a beautiful species of cactus whose magnificent red blossoms grace this sad, sandy desert in a strange manner." Ernest Twisselmann (1969) claimed the species "once grew in dense almost impenetrable colonies on the mesas east of Bakersfield." A photograph in Britton and Rose (1920) attests to the species' former abundance. As late as 1937, biologists noted that the species produced a "thick growth" along Caliente Creek (Piemeisel and Lawson 1937). However, ag-land conversion (primarily for the production of potatoes and cotton), oil development, sand mining, urbanization, and perhaps wildfire have reduced this formerly widespread species to numerous, small isolated colonies. These colonies can be divided into five general population areas: the oilfields northeast of Oildale, Kern River Bluffs northeast of Bakersfield, the bluffs and rolling hills west and north of Caliente Creek east of Bakersfield, Comanche Point on the Tejon Ranch southeast of Arvin, and northwest of the community of Wheeler Ridge. Off-road vehicle use, proposed flood control basins, and the activities cited above continue to threaten the remaining sites.

Federal government actions on these five plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In the report, *Opuntia basilaris* var. *treleasei* was listed as an endangered species. On July 1, 1975 (40 FR 27823), the Service published a notice in the **Federal Register** of its acceptance of the report as a petition within the context of section 4(c)(2) [now section 4(b)(3)] of the Act, and of the Service's intention thereby to review the status of the plant taxa named within. *Opuntia basilaris* var. *treleasei* was included in that notice. 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 to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Opuntia basilaris* var. *treleasei* was included in the proposed rule. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication, which also determined 13 plant species to be endangered or threatened (43 FR 178909). On December 10, 1979, the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980, the Service published a revised notice of review of native plants in the **Federal Register** (45 FR 82480); *Opuntia basilaris* var. *treleasei* was included as a category 1 candidate species (species for which data in the Service's possession indicate listing is warranted). On November 28, 1983, the Service published in the **Federal Register** (48 FR 53640) a supplement to the 1980 notice of review. This supplement added *Caulanthus californicus* as a category 2 candidate species (species for which data in the Service's possession indicate listing is probably appropriate, but for

which additional biological information is needed to support a proposed rule). Along with *Opuntia basilaris* var. *treleasei* in category 1, *Eremalche kernensis* and *Eriastrum hooveri* were included with *Caulanthus californicus* in category 2 in the September 27, 1985, revised notice of review for plants (50 FR 39526). This proposal to list *Caulanthus californicus, Eremalche kernensis, Lembertia congdonii,* and *Opuntia treleasei* as endangered and *Eriastrum hooveri* as threatened largely is based on status surveys conducted by Taylor and Davilla (1986) and Taylor (1987), field work carried out by Chamberlain (U.S. Army Corps of Engineers 1986) and Mike Foster (botanist, California Energy Commission, pers. comm., November 24, 1987, January 22, 1988), and pertinent literature (see "References Cited" below).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for one of the southern San Joaquin Valley plants, *Opuntia treleasei,* because the 1975 Smithsonian report was accepted as a petition. In October 1983, 1984, 1985, 1986, 1987, and 1988, the Service found that the petitioned listing of *Opuntia treleasei* was warranted, but that the listing of this species was precluded due to other higher priority listing actions. Publication of the present proposal constitutes the next 1-year finding required by October 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 promulgated to implement the listing provisions of the Act (50 CFR Part 424) 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 *Caulanthus californicus* (Watson) Payson (California jewelflower); *Eremalche kernenis* C.B. Wolf (Kern mallow); *Eriastrum hooveri* (Jepson) H.L. Mason (Hoover's wooly-star); *Lembertia congdonii* (Gray) Greene [=*Eatonella congdonii* Gray) (San Joaquin wooly-threads); and *Opuntia treleasei* Coulter [=*Opuntia basilaris* Engelmann & Bigelow var. *treleasei* (Coulter) Toumey] (Bakersfield cactus) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* All five species proposed herein (*Caulanthus californicus, Eremalche kernensis, Eriastrum hooveri, Lembertia congdonii,* and *Opuntia treleasei*) are restricted to grassland and adjacent plant communities (valley sink scrub, valley saltbush scrub, and juniper woodland) in the southern San Joaquin Valley and neighboring foothills and valleys in California (see "Background" section for specific distributions). The primary threat facing these five species is the ongoing and threatened destruction and adverse modification of habitat. As discussed in the "Background" section, primarily ag-land conversion and urbanization have claimed 96 percent of the native habitats of the valley floor. The remaining non-urbanized or non-converted lands, which largely occur in the neighboring foothills and valleys (i.e., Carrizo Plain, Cuyama Valley), have been subject to livestock grazing, water development, oil and gas development and exploration, off-road vehicle use, mining, and/or other activities. These anthropogenic actions continue to threaten the native plant communities and habitats of these five species.

Caulanthus californicus was known from 40 sites in six counties (Fresno, Kern, Kings, San Luis Obispo, Santa Barbara, and Tulare), according to herbarium and field records detailed in the status survey by Taylor and Davilla (1986). Although once described as "abundant on the plains of the San Joaquin from Tulare southward (Greene 1891)," the species is known today from three sites: Two natural populations on private land (one near the mouth of Santa Barbara Canyon in Santa Barbara County and another in the southern portion of Carrizo Plain in San Luis Obispo County) and one introduced colony in Paul Paine Preserve (owned by The Nature Conservancy) in Kern County. Although the landowners of the Santa Barbara Canyon population have entered into voluntary agreements with The Nature Conservancy to protect the site (California Nature Conservancy 1987), no such agreement or protection exists for the recently-discovered population in San Luis Obispo County. Though no plants were observed at Santa Barbara Canyon in 1987 (Taylor, pers. comm., February 21, 1987), several thousand plants were counted in the spring of 1988. The Carrizo Plain population harbored a couple thousand individuals in 1988 (Mike Foster, pers. comm., March 14, 1988). Taylor noted only 24 plants at the introduced site, of which only four plants flowered. Rainfall patterns probably account for the variation in population size for these colonies of *C. californicus.* Ag-land conversion likely claimed most of the valley floor sites due to the species' preference for sandy soils, which are prized for viticulture (Taylor and Davilla 1986). As suggested from herbarium records and the species' palatability, livestock grazing probably claimed the remaining extirpated sites within the last few decades (see Factor "D" for discussion). In addition, Taylor and Davilla (1986) speculate that poor air quality may have contributed to the demise of the species by promoting the growth of competing, pollution-tolerant plants (i.e., *Bromus rubens*).

Eremalche kernensis was known from six sites in western Kern County, according to herbarium and field records detailed in the status survey by Taylor and Davilla (1986). Oil and gas development likely extirpated the type locality of the species in the Temblor Valley. Another site of *E. kernensis,* 5 miles north of Lost Hills, was probably eliminated by ag-land conversion. In addition, construction of the California Aqueduct may have eliminated some unknown populations of the species. Three of the remaining four known occurrences exist on private land less than 5 miles from the South Belridge and Cymric Oil Fields and in the vicinity of transmission corridors (Taylor and Davilla 1986). Aside from maintenance or expansion of these corridors, future oil and gas development and exploration may threaten these remaining sites. One population north of McKittrick occurs on public land managed by the Bureau of Land Management (Bureau). Though the agency has not undertaken any special management of the site, the Bureau gives limited management consideration to candidate species. Nonetheless, this site still may be used for a variety of public uses (e.g., mineral extraction, oil and gas development, livestock grazing). All populations occur in areas grazed by sheep in the winter and spring. Consequently, Taylor and Davilla (1986) concluded, "[u]ncontrolled and heavy sheep grazing would be detrimental to *E. kernensis.*"

Lembertia congdonii was known from 52 sites in seven counties (Fresno, Kern, Kings, San Benito, San Luis Obispo, Santa Barbara, and Tulare), according to herbarium and field records, and a recent status survey (Taylor 1987; Foster, pers. comm., March 14, 1988). Habitat alteration, principally due to ag-land conversion, eliminated 33 of these sites, including the type locality and

only known population in Tulare County. Of the remaining 19 sites, Taylor (1987) observed the species growing at six of these localities in either 1986 or 1987, while Foster (pers. comm., March 14, 1988) found an additional three populations in 1988. Population size ranged from 20 to 300 plants, the largest stand scattered over approximately 100 acres. Although no plants were located at the other 10 localities, Taylor (1987) reported that these sites still have suitable habitat. Although three of the 19 sites presumably harboring *L. congdonii* are on public land managed by the Bureau of Land Management, the agency has not undertaken any special management of these localities. Although the Bureau gives limited management consideration to candidate species, these sites still may be used for a variety of public uses (e.g., mineral extraction, oil and gas development, livestock grazing). Another population presumably still persists at Sand Ridge east of Bakersfield. Although The Nature Conservancy owns a 120-acre parcel on Sand Ridge, the northern portion of this area remains in private ownership. Off-road vehicle use, sand mining, and a flood control project proposed by the U.S. Army Corps of Engineers pose a potential threat to resources within this area. Portions of two populations were acquired by The Nature Conservancy as part of their Carrizo Plain Natural Heritage Preserve in early 1988. On August 30, 1988, the California Department of Water Resources purchased lands within the largely abandoned Strand and Canal Oil Fields, as part of the Kern Water Bank Project, that harbor the three populations found by Foster. The remaining portions of three sites owned in part by The Nature Conservancy and the other ten populations are privately owned and adjacent to lands that have been or continue to be urbanized, converted to agriculture, developed for oil and gas extraction and conveyance, or affected by off-road vehicles and grazing livestock. Similar activities are likely to continue in the near future.

Opuntia treleasei "once grew in dense almost impenetrable colonies on the mesas east of Bakersfield," according to Twisselman (1969). However, ag-land conversion (primarily for the production of potatoes and cotton), oil development, sand mining, urbanization, and perhaps wildfire have reduced this formerly widespread species to numerous, small isolated colonies. As discussed in the "Background" section, these colonies can be divided into five general population areas. Primarily oil and gas development threaten the colonies northeast of Oildale, the northernmost population. Though this activity, to some degree, affects the population along the Kern River Bluffs northeast and east of Bakersfield, this area is rapidly being converted to housing for the ever-expanding population of Bakersfield. The construction of a small hydroelectric project and its associated accidental wildfire affected a few plants within the Kern River floodplain northeast of Bakersfield and east of Lake Ming. Off-road vehicle use, sand mining, and perhaps livestock overgrazing threaten the colonies on the bluffs and rolling hills west and north of Caliente Creek, the population located within the center of the species' range. Because the cactus provides no forage for livestock and competes with the alien grasses, ranchers may undertake eradication programs which may adversely affect the species. As discussed under *Lembertia congdonii*, The Nature Conservancy owns a portion of the Sand Ridge colony along the bluffs of Caliente Creek. However, a proposed flood control project likely will eliminate some individuals in the Sand Ridge area, including many plants on property owned by The Nature Conservancy. The Tejon Ranch, which is aware of the solitary clump of *O. Treleasei* on the ranch, has not expressed any plans to eliminate the cactus at Comanche Point. This population, however, is less than 4 miles from the Comanche Point Oil Field, which suggests the site may be subject to future oil and gas exploration. Ag-land conversion, aqueduct and transmission line maintenance, off-road vehicle use, urbanization, road widening, and illegal dumping threaten the remaining isolated colonies northwest of the community of Wheeler Ridge (Foster, pers. comm., January, 22, 1988), although one population grows on land owned by the State of California and administered by the California Department of Water Resources. In addition, the North Tejon Oil Field affects much of the Wheeler Ridge area.

Eriastrum hooveri was known from 49 sites in four counties (Fresno, Kern, San Luis Obispo, and Santa Barbara), according to individual reports (Taylor, pers. comm., November 30, 1987; Foster, pers. comm., November 24, 1987) and a recent status survey (Taylor and Davilla 1986). Primarily ag-land conversion and urbanization eliminated eleven of these sites. Of the remaining 38 sites, one population occurs on the Paul Paine Preserve, which The Nature Conservancy owns and protects. Another five sites presumably still exist either in the Temblor Range or Alcalde Hills, either or which may harbor additional populations. Overgrazing poses the only imminent threat to these foothill populations. Although recent field survey work conducted by the California Department of Water Resources greatly expanded the area known by Taylor and Davilla (1986) to harbor the species along Warthan Creek in Fresno County (Arthur Gooch, pers. comm., July 22, 1988), this large population is threatened by the proposed Arroyo Pasajero Project. Cited as two populations in Taylor and Davilla (1986), the only populations known to occur on public land are from the Elk Hills on Naval Petroleum Reserve No. 1 (NPR–1) managed by the Department of Energy and on an adjacent parcel managed by the Bureau of Land Management. Inasmuch as Taylor and Davilla (1986) were unable to thoroughly survey NPR–1, the Department of Energy's consultant conducted a survey in 1988. Preliminary results reported finding 28 "populations" primarily along the northern and southern boundaries of NPR–1 (Thomas Kato, EG&G Energy Measurements, pers. comm., August 2, 1988). Though neither the Department of Energy nor the Bureau has undertaken any special management of these localities, the latter agency gives limited management consideration to candidate species. However, this policy does not necessarily prevent this population site from being used for a variety of public uses. Consequently, mineral extraction, oil and gas development, and livestock grazing may threaten these federally owned populations. One population, occurring on the Alkali Sink Ecological Preserve, grows on land owned by the State of California and managed by the California Department of Fish and Game. According to Taylor and Davilla (1986), the 29 remaining sites (including a portion of another population that occurs on both public and private land) occur on private property and typically on small, irregularly shaped parcels surrounded by ag-land and/or urban areas, which are often adjacent to roads. Seven of these sites harbor substantial populations (5,000 to 40,000 plants), while the remaining 23 sites consist of less than 1,000 individuals. All 29 populations occur on sites ranging from approximately an acre to less than 400 acres in size. Though many of these privately owned sites are perhaps too small to farm economically, parcels such as these continue to be converted to ag-land. Moreover, urbanization, conversion of habitat for ground-water recharge basins or disposal of nutrient-

laden agricultural effluent, off-road vehicle use, and oil and gas development continue to threaten these 29 populations (Taylor and Davilla 1986).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although not necessarily applicable to these species, many cacti are collected and cultivated by plant collectors, or offered for sale or trade by cactus growers. Though no data exist demonstrating such commerce in *Opuntia treleasei*, the species may still be collected and cultivated.

C. *Disease or predation.* As briefly mentioned above under Factor "A", livestock grazing probably extirpated colonies of *Caulanthus californicus* growing in the foothills and valleys adjoining the southern San Joaquin Valley. Moreover, trampling by livestock may have contributed to the endangerment of this species and *Eremalche kernensis*. Overgrazing may also threaten the other three species proposed herein.

D. *The inadequacy of existing regulatory mechanisms.* Under the Native Plant Protection Act (Chapter 1.5 section 1900 *et seq.* of the Fish and Game Code) and California Endangered Species Act (Chapter 1.5 section 2050 *et seq.*), the California Fish and Game Commission has listed one of these five species (*Caulanthus californicus*) as endangered (14 California Code of Regulations 670.2), while aother species (*Opuntia treleasei)* is a State candidate (Stephen Nicola, pers. comm., September 23, 1988). Though both statutes prohibit the "take" of State-listed plants (Chapter 1.5 sections 1908 and 2080), Stat law appears to exempt the taking of such plants via habitat modification or land use change by the landowner. Afer the California Department of Fish and Game notifies a landowner that a State-listed plant grows on his or her property, State law evidently requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant." (Chapter 1.5 section 1913)

Opuntia treleasei, like all Cactaceae from the Americas not listed separately under Appendix I, is included under Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Although CITES regulates the international trade of listed species, the possibility of trade is not currently a threat to *Opuntia treleasei*.

E. *Other natural or manmade factors affecting its continued existence.* The invasion of alien, annual grasses has adversely affected all of the remaining "natural" areas since the days of the Franciscan missionaries. These alien grasses, which account for 50 to 90 percent of the vegetative cover (Heady 1956) and can stand up to a meter in height (Holland 1986), largely dominate grasslands of California. As discussed in the "Background" section, the exotic annuals may alter the natural fire regime and these plants have either outcompeted or continue to compete with the native flora.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Caulanthus californicus, Eremalche kernensis, Lembertia congdonii,* and *Opuntia treleasei* as endangered, and to list *Eriastrum hooveri* as threatened.

Caulanthus californicus, Eremalche kernensis, Lembertia congdonii, and *Opuntia treleasei* have been extirpated from all but a small fraction of their historical ranges. Today these species generally persist as small, isolated populations or colonies surrounded by ag-land, urban areas, oil fields, and/or roads. Competition from alien grasses probably has and continues to adversely affect these species, especially the three annual herbs (*Caulanthus californicus, Eremalche kernensis,* and *Lembertia congdonii*). Although The Nature Conservancy owns most of the three remaining populations of *Caulanthus californicus* (California Nature Conservancy 1987), stochastic events affecting such extremely small populations still may result in the extinction of this species. All four remaining populations of *Eremalche kernensis* occur within a solitary township north of McKittrick, which may be adversely affected by livestock trampling, transmission corridor maintenance or expansion, and oil and gas development or exploration. The remaining 19 sites of *Lembertia congdonii* are variously threatened by ag-land conversion, urbanization, conversion of habitat for ground-water recharge basins, or disposal of agricultural effluent, livestock overgrazing, off-road vehicle use, and/or oil an gas development and exploration. Four populations of two of these species (*Eremalche kernensis* and *Lembertia congdonii*) occur on public land managed by the Bureau of Land Management, which accords limited management consideration to candidate species. However, this policy does not prevent the use of these sites for a variety of public uses (e.g., mineral extraction, oil and gas development, livestock grazing). The relictual colonies of *Opuntia treleasei* are imminently threatened by ag-land conversion, oil development, sand mining, urbanization, off-road vehicle use, construction of flood control basins, aqueduct and transmission line maintenance, road widening, illegal dumping, and/or potentially alterations in the natural fire regime. Because these four plants are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Eriastrum hooveri has been extirpated, principally as a result of ag-land conversion and urbanization, from 11 of its 49 known sites. Of the remaining 38 sites, one population is in preserve status and five sites presumably still exist either in the Temblor Range or the Alcalde Hills. Overgrazing poses the only imminent threat to these foothill populations. Two populations, for the most part, occur on public land, though the extent of the species of NPR–1 is under study. Regardless, these sites remain vulnerable to a variety of public uses (e.g., mineral extraction, oil and gas development, and livestock grazing). The 30 remaining parcels, including a portion of another population that occurs on both public and private land, are threatened by ag-land conversion, urbanization, conversion of habitat for ground-water recharge basins or disposal of agricultural effluent, off-road vehicle use, and oil and gas development and exploration (Taylor and Davilla 1986). Although the number of extant populations (38), including those located on NPR–1, provides greater flexibility in recovery and reduces the likelihood that the species will go extinct in the immediate future, the threats facing the 31 sites of *E. hooveri* on private property, at least in part, suggest that the species is likely to become an endangered species within the foreseeable future. Because of the limited threats facing the foothill populations of *E. hooveri* and the likelihood additional occurrences may be found in these upland areas, this species is not now in immediate danger of extinction throughout all or a significant portion of its range. However, if appropriate management actions are not taken, the species is likely to become in danger of extinction in the near future. As a result, *E. hooveri* fits the definition of threatened species as defined in the Act.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent

prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that determination of critical habitat is not prudent for these species at this time. Because the five species face numerous anthropogenic threats (see Factor A in "Summary of Factors Affecting the Species") and occur predominantly on private land, the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these plants more vulnerable to incidents of vandalism and, therefore, could contribute to the decline of these species. The listing of these species as either endangered or threatened also publicizes the rarity of these plants and, thus, can make these plants attractive to researchers or collectors of rare plants. No Federal protection exists pursuant to section 9 of the Act for such take of listed plants on non-Federal lands. The proper agencies have been notified of the locations and management needs of these plants. Landowners will be notified of the location and importance of protecting habitat of these species. Protection of these species' habitats will be addressed through the recovery process and through the section 7 jeopardy standard. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. Therefore, the Service finds that designation of critical habitat for these plants is not prudent at this time, because such designation likely would increase the degree of threat from vandalism, collecting, or other human activities.

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 result in 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 affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Seven populations of three of the proposed plant species occur on Federal (public) land; one population of *Eremalche kernensis* is managed by the Bureau of Land Management, two populations of *Eriastrum hooveri* are administered respectively by the Bureau of Land Management and Department of Energy, and four populations of *Lembertia congdonii* are managed by the Bureau of Land Management. Though some other stands occur near Federal land, all of the remaining known sites are on private land with no known Federal involvement with the following exceptions. The U.S. Army Corps of Engineers and the Bureau of Reclamation may fund or develop, at least in part, proposed flood control or water projects. Because of potential impacts to two federally listed animals, the San Joaquin kit fox (*Vulpes macrotis mutica*) and the bluntnosed leopard lizard (*Gambelia silus*), the Corps has consulted formally on a proposed flood control project for Caliente Creek. This project would potentially eliminate numerous individual plants of *Opuntia treleasei* from the Sand Ridge colony, which grows on the bluffs adjoining the creek (U.S. Army Corps of Engineers 1986). Aside from the direct effects of this and other similar proposed projects, other potential Federal actions include new allocations of water from existing Federal projects, which could increase ag-land conversion and possibly affect one or more of these five plant species. Activities involving Federal mortgage programs, including those of the U.S. Department of Agriculture (Farmers Home Administration), Veterans Administration, and U.S. Department of Housing and Urban Development (Federal Home Administration loans), may be subject to section 7 review.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species and 17.71 and 17.72 for threatened species set forth a series of general trade prohibitions and exceptions that apply to all endangered and threatened plant species. With respect to the five plants from the southern San Joaquin Valley, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale these species in interstate or foreign commerce, or to remove and reduce to possession these 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 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances. The Service anticipates few trade permits would ever be sought or issued for the five species, with the possible exception of *Opuntia treleasei* which, like other cacti, may be in cultivation. 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, Washington, DC 20240 (703/343–4955).

As a species of Cactaceae (Cactus family), *Opuntia treleasei* is included in Appendix II of the CITES Convention (See 50 CFR 23.23). The effect of this protection under the CITES Convention is that an export permit must be issued by the country of origin, or a re-export certificate must be issued by the country of re-export prior to the importation of *Opuntia treleasei*. Such CITES Convention restrictions are intended to prevent international trade from being detrimental to the survival of the species.

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 proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Caulanthus californicus, Eremalche kernensis, Eriastrum hooveri, Lembertia congdonii,* or *Opuntia treleasei*;

(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 ranges and habitats of these species and their possible impacts on these species.

Final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ 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 Field Supervisor (see **ADDRESS** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by 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 Jim A. Bartel, Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916/978–4866, FTS 460–4866).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations 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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (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 families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Sepcial rules
Scientific name	Common name					
Brassicaceae—Mustard Family:						
* * *	* * *	* * *	*	*	*	
Caulanthus californicus	California jewelflower	U.S.A. (CA)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Malvaceae—Mallow Family:						
* * *	* * *	* * *	*	*	*	
Eremalche kernensis	Kern mallow	U.S.A. (CA)	E		NA	NA
* * *	* * *	* * *	*	*	*	
Polemoniaceae—Phlox family:						
* * *	* * *	* * *	*	*	*	
Eriastrum hooveri	Hoover's wooly-star	U.S.A. (CA)	T		NA	NA
* * *	* * *	* * *	*	*	*	
Asteraceae—Aster family:						
* * *	* * *	* * *	*	*	*	
Lembertia congdonii	San Joaquin wooly-threads	U.S.A. (CA)	Ed		NA	NA
* * *	* * *	* * *	*	*	*	
Cactaceae—Cactus family:						
* * *	* * *	* * *	*	*	*	
Opuntia treleasei	Bakershield cactus	U.S.A. (CA)	E		NA	NA
* * *	* * *	* * *	*	*	*	

Dated: June 12, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-17595 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Proposal to List the Purple Cat's Paw Pearly Mussel as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a freshwater mussel, the purple cat's paw pearly mussel (*Epioblasma* (=*Dysnomia*) *obliquata obliquata* (=*E. sulcata sulcata*)), as an endangered species under the Endangered Species Act of 1973, as amended (Act). This freshwater mussel historically occurred in the Ohio River and its large tributaries in Ohio, Indiana, Illinois, Kentucky, Tennessee, and Alabama. Presently the purple cat's paw pearly mussel is known from only two relic, apparently nonreproducing populations—one in a reach of the Cumberland River in Tennessee and one in a reach of the Green River in Kentucky. The distribution and reproductive capacity of this species have been seriously impacted by the construction of impoundments on the large rivers it once inhabited. Unless reproducing populations are found or methods developed to maintain existing populations, this species will likely become extinct in the foreseeable future. Comments and information are sought from the public concerning this proposal.

DATES: Comments from all interested parties must be received by September 25, 1989. Public hearing requests must be received by September 11, 1989.

ADDRESS: Comments and materials, and requests for public hearing concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 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. Richard G. Biggins at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

The purple cat's paw pearly mussel (*Epioblasma* (=*Dysnomia*) *Obliquata obliquate* (=*E. sulcata sulcata*)), was described by Rafinesque (1820). The white cat's paw (*Epioblasma* (=*Dysnomia*) *sulcata delicata*), the northern subspecies of the cat's paw pearly mussel known from the Lake Erie system of the St. Lawrence drainage, was listed as endangered on June 14, 1976 (41 FR 24064). The purple cat's paw, which is characterized as a large river species (Bates and Dennis 1985), has a medium-size shell that is subquadrate in outline (Bogan and Parmalee 1983). The shell has fine, faint, wavy green rays with a smooth and shiny surface. The inside of the shell is purplish to deep purple (the inside shell of the white cat's paw is white). Like other freshwater mussels, the purple cat's paw feeds by filtering food particles from the water. It has a complex reproductive cycle in which the mussel's larvae parasitize fish. The mussel's life span, fish species its larvae parasitize, and other aspects of its life history are unknown.

The purple cat's paw pearly mussel was historically distributed in the Ohio, Cumberland, and Tennessee River systems in Ohio, Illinois, Indiana, Kentucky, Tennessee, and Alabama (Bogan and Parmalee 1983, Isom *et al.* 1979, Kentucky Nature Preserves Commission 1980, Parmalee *et al.* 1980, Watters 1986, Stansbery 1970). Based on personal communication with knowledgeable experts (Steven Ahlstedt and John Jenkinson, Tennessee Valley Authority, 1987; Mark Gordon and Robert Anderson, Tennessee Technological University, 1988; Arthur Bogan, Philadelphia Academy of Sciences, 1988; Ronald Cicerello, Kentucky Nature Preserves Commission, 1988; David Stansbery, Ohio State University, 1987) and a review of current literature, the species is known to survive in only two river reaches, but apparently as nonreproducing populations. These are located in the Cumberland River, Smith County, Tennessee, and the Green River, Warren and Butler Counties, Kentucky.

The continued existence of these two populations is questionable. Unless reproducing populations can be found or methods can be developed to maintain these or create new populations, the species will become extinct in the foreseeable future. Any individuals that do still survive in these two river

reaches are also threatened from other factors. The Green River in Kentucky has experienced water quality problems related to the impacts from oil and gas production in the watershed. The individuals still surviving in the Cumberland River are potentially threatened by gravel dredging, channel maintenance, and commercial mussel fishing. Although the species is not commercially valuable, incidental take of the species does sometimes occur in the Cumberland River during commercial mussel fishing for other species.

The purple cat's paw pearly mussel was recognized by the Service as a category 2 species (one that is being considered for possible addition to the Federal List of Endangered and Threatened Wildlife) in a May 22, 1984, notice published in the **Federal Register** (49 FR 21664). On May 2, 1988, and September 8, 1988, the Service notified Federal, State, and local governmental agencies and interested individuals by mail that a status review was being conducted specifically on the purple cat's paw pearly mussel and that the species could be proposed for listing. Since that time, additional contacts with Federal and State agency personnel and the scientific community have occured concerning the species' status, its potential for protection under the Endangered Species Act, and possible future recovery actions.

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 procedures for adding species to the Federal list. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the purple cat's paw pearly mussel (*Epioblasma* (=*Dysnomia*) *obliquata obliquata* (=*E. sulcata sulcata*)) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The purple cat's paw pearly mussel was once known from the large tributaries of the Ohio River system in Ohio, Indiana, Illinois, Kentucky, Tennessee, and Alabama (Bogan and Parmalee 1983). However, all but two of the historically known populations were apparently lost due to conversion of many sections of the bigger rivers to a series of large impoundments. This seriously reduced the availability of preferred riverine gravel/sand habitat and likely affected the distribution and availability of the mussel's fish host. As a result, the species' distribution has been substantially reduced.

The State of Indiana has no current records of the species in the State (Indiana Department of Natural Resources, personal communication, 1988). The species has not been collected in Illinois in over 100 years (Illinois Natural History Survey Division, personal communication, 1988). In Kentucky the species is now known only from the Green River, Warren and Butler Counties, Kentucky (Kentucky Fish and Wildlife and Kentucky Nature Preserves Commission, personal communication, 1988). This Green River population is represented by only one old but freshly dead individual taken on the Green River in Warren and Butler Counties, Kentucky, in 1988 (Robert Anderson, Tennessee Technological University, personal communication, 1988). Prior to 1988, the mussel had not been collected in the Green River since 1971 (Kentucky Nature Preserves Commission, personal communication, 1988). The middle Cumberland River (Smith County, Tennessee) contains the only known living representative of the purple cat's paw in Tennessee (U.S. Army Corps of Engineers, personal communication, 1988). The historical collection site in Alabama (on the Tennessee River at Muscle Shoals) is now impounded (Bogen and Parmalee 1983).

The two surviving populations are threatened from impacts on their environment. The Green River population is threatened from degradation of water quality resulting from inadequate environmental controls of oil and gas exploration and production facilities, and from altered stream flows from upstream reservoirs. The Cumberland River population is potentially threatened by river channel maintenance, navigation projects, and gravel and sand dredging.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although the species is not commercially valuable, it does exist on harvested mussel beds, and the species is therefore sometimes taken by mussel fishermen. Thus, take does pose some threat to the species. Federal protection would help to control the take of individuals.

C. *Disease or predation.* Although the purple cat's paw pearly mussel is undoubtedly consumed by predatory animals, there is no evidence that predation threatens the species. However, freshwater mussel die-offs have recently (early to mid-1980s) been reported throughout the Mississippi River basin, including the Tennessee River and its tributaries (Richard Neves, Virginia Polytechnic Institute and State University, personal communication, 1986). The cause of the die-offs has not been determined, but significant losses have occurred to some populations.

D. *The inadequacy of existing regulatory mechanisms.* The States of Kentucky and Tennessee prohibit taking fish and wildlife, including freshwater mussels, for scientific purposes without a State collecting permit. However, these States do not protect the species from take for other purposes. Federal listing will provide the species additional protection under the Endangered Species Act by requiring Federal permits to take the species and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may affect the species.

E. *Other natural or manmade factors affecting its continued existence.* Neither of the presently known populations is known to be reproducing. Therefore, unless reproducing populations can be found or methods can be developed to maintain existing populations or create new ones, the species will be lost in the foreseeable future. In fact, both known populations may contain only old individuals that have passed their reproductive age.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the purple cat's paw pearly mussel (*Epioblasma* (=*Dysnomia*) *obliquata obliquata* (=*E. sulcata sulcata*)) as an endangered species. Historical records reveal that the species was once much more widely distributed in many of the large rivers of the Ohio River system. Presently only two isolated, apparently nonreproducing populations are known to survive. Due to the species' history of population losses and the vulnerability of the two remaining populations, threatened status does not appear appropriate for this species (see "Critical Habitat" section for a discussion of why critical habitat is not being proposed for the purple cat's paw pearly mussel).

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 that 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 the purple cat's paw pearly mussel at this time, owing to the lack of benefits from such designation. The U.S. Army Corps of Engineers, the Tennessee Valley Authority, and the U.S. Park Service are the three Federal agencies most involved, and they, along with the State natural resources agencies in Tennessee and Kentucky, are already aware of the location of the remaining populations that would be affected by any activities in these river reaches. All the Federal agencies mentioned have conducted studies in these river basins and are knowledgeable of the fauna and of their projects' impacts. No additional benefits would accrue from critical habitat designation that would not also accrue from the listing of the species. In addition, this species is so rare that taking for scientific purposes and private collection could be a threat. The publication of critical habitat maps and other publicity accompanying critical habitat designation could increase that threat. The location of populations of this species has consequently been described only in general terms in this proposed rule. Any existing precise locality data would be available to appropriate Federal, State, and local governmental agencies through the Service office described in the **"ADDRESSES"** section.

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 prohibition 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 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 destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service has notified Federal agencies that may have programs that affect the species. Federal activities that could occur and impact the species include, but are not limited to, the carrying out or the issuance of permits for hydroelectric facility construction and operation, reservoir construction, river channel maintenance, stream alterations, wastewater facilities development, and road and bridge construction. It has been the experience of the Service, however, that nearly all section 7 consultations have been resolved so that the species has been protected and the project objectives have been met. In fact, the areas inhabited by the purple cat's paw pearly mussel are also inhabited by other mussels that have been federally listed since 1976. The Service has a history of successful resolution of section 7 conflicts that have protected the species and allowed for project objectives to be met throughout these areas.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take any listed species, import or export it, ship it in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes to enhance the propagation or survival of the species and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from 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 proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

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

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

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to 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, U.S. Fish and Wildlife Service, Asheville Field Office, 100 Otis Street, Room 224, Asheville, NC 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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Watters, G.T. 1986. The Nature Conservancy Element Stewardship Abstract: *Epioblasma obliquata obliquata*. The Nature Conservancy, Midwest Regional Office, Minneapolis, Minnesota. Unpublished report. 4 pp.

Author

The primary author of this proposed rule is Richard G. Biggins, U.S. Fish and Wildlife Service, Asheville Field Office, 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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under CLAMS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS:							
*	*	*	*	*	*	*	
Pearly mussel, purple cat's paw.	*Epioblasma* (=*Dysnomia*) *obliquata obliquata* (=*E. sulcata sulcata*).	U.S.A. (AL, IL, IN, KY, TN)	NA	E		NA	NA
*	*	*	*	*	*	*	

Dated: June 12, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–17597 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

RIN 1018–AB31

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Arkansas Fatmucket, Lampsilis powelli

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Arkansas fatmucket, *Lapsilis powelli*, to be a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). This freshwater mussel is known to exist in the headwaters of the Saline River, and in the Caddo, Ouachita, and South Fork Ouachita Rivers of central Arkansas. Major threats to its continued existence are impoundments, channel alteration, gravel dredging, sedimentation and water quality degradation. This proposal, if made final, would implement the protection of the Act for the Arkansas fatmucket. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by September 25, 1989. Public hearing requests must be received by September 11, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Jackson Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James Stewart at the above address (601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

The Arkansas fatmucket was described as *Unio powelli* by Lea in 1852 from the Saline River, Arkansas (Johnson 1980). It was synonymized under *Actinonaias ligamentina* by Call in 1895 (Harris and Gordon 1988). In 1900, Simpson placed it in the genus *Lampsilis* (Simpson 1914). The species has been overlooked by a number of authors in reviews of Arkansas mussel fauna, including Burch (1975), Gordon, et al. (1980) and Gordon (1980). Johnson (1980) in his monograph, Stansbery (1983), and Gordon and Harris (1985) all consider *L. powelli* as a valid species. Reported collections of *L. powelli* from the Spring and Neosho Rivers, Kansas, and the Black River, Missouri, are misidentifications.

The shell of the Arkansas fatmucket is generally of medium size, but it occasionally exceeds 100 mm in length. It is ellipticial to long obovate with subinflated valves. The umbos are moderately full and project slightly above the hinge line. The shell surface is generally smooth with a shiny olive brown to tawny periostracum and lacks rays. The nacre is bluish white and iridescent. There is sexual dimorphism (Johnson 1980).

The Arkansas fatmucket prefers deep pools and backwater areas that possess sand, sand-gravel, sand-cobble or sand-rock with sufficient flow to periodically

remove organic detritus, leaves and other debris. It is not generally found in riffles nor does it occur in impoundments. It is frequently found with islands of *Justicia americana* (water willow) where substrate is typically depositional and water depth is about 1 meter (Harris and Gordon 1988).

The Arkansas fatmucket is known to exist in the Ouachita, Saline and Caddo River systems. In the Ouachita Basin, this species occurs in the Ouachita River upstream of Lake Ouachita in Montgomery and Polk Counties, and in the South Fork Ouachita River upstream of Lake Ouachita in Montgomery County. In the Saline River Basin, the species occurs in Alum Fork, the Middle Fork, and the North Fork above their confluence with the Saline River, and in the Saline River from its formation downstream to about the Fall Line. The species does not occur in the South Fork of the Saline or in Hurricane Creek, a major tributary, but it probably did historically. In the Caddo River, the Arkansas fatmucket is known from three locations, all of which are in the mainstem.

Collection records on which to base historical distribution of this species do not exist. However, some assumptions can be made by examining the current distribution, current habitat types, and alterations to habitat that have occurred for various reasons. The probable historic range of this species likely included the Caddo River from Norman downstream to the Ouachita River, including at least the lower reach of the South Fork Caddo River. It seems likely that the species occupied the Ouachita River from Malvern upstream to the species' current known range, and the South Fork Ouachita River for its entire length. In the Saline River drainage, the Arkansas fatmucket likely occurred in all four forks and the mainstem from the Fall Line upstream to the extent of permanent flowing water, and in Hurricane Creek upstream of the Fall Line. Archeological records of other Ozarkian mussels indicate these species may have historically occurred throughout the entire drainage of those systems rather than being restricted to the headwaters as they are at present.

Land use in the basins where this species occurs is predominantly silviculture with lesser amounts of crop lands, grass land and urban development. Most of the forest land is owned by timber companies, although a small portion of the species' range lies within the Ouachita National Forest. The remainder of the land is privately owned in relatively small tracts (Harris and Gordon 1988).

The only previous Service action on this species was its inclusion in a notice of review on January 6, 1989 (54 FR 579), where it is listed as a category 2 species, i.e., a species whose listing as endangered or threatened may be appropriate, but for which more data are needed for a final determination.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Arkansas fatmucket *(Lampsilis powelli)* are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* The range of this species has been curtailed and continues to be threatened by impoundments, channel alteration, gravel dredging, sedimentation and water quality degradation. On the Ouachita River, the range of this species has been reduced by the construction of Lake Ouachita, Lake Hamilton and Lake Catherine and the hypolimnetic water releases from these impoundments. On the Caddo River, the impoundment of DeGray Reservoir and resulting hypolimnetic water releases have impacted what was probably the uppermost historic habitat for the species in this system. A part of the Ouachita River Basin Comprehensive Study by the U.S. Army Corps of Engineers includes a feasibility study for one or more impoundments for flood control and other purposes on the Saline River near Benton (Harris and Gordon 1988). The Soil Conservation Service has constructed one impoundment on a tributary of the South Fork Ouachita River, has another under construction, and plans a third impoundment on the mainstem South Fork Ouachita River (Harrris and Gordon 1988). While these Soil Conservation Service impoundments will not directly inundate known populations of this species, there are impacts occurring during the construction and possibly during the operation of these impoundments. During construction there is increased threat from silt and sediment, and after completion, the control of water flows during low flow periods could expose the mussel and also result in lowered dissolved oxygen. Harris and Gordon (1988) list 16 existing impoundments, 1 under construction, and 1 planned within the known range of this mussel that undoubtedly have already impacted its existence or will in the future.

In the South Fork Ouachita River, there is evidence of adverse impacts to a population of the Arkansas fatmucket from channel alteration as a result of highway repairs occurring in 1984–85. The existing channel is filling with organic debris, and flows are apparently inadequate to flush the area. Channel modification is common at highway crossings, and habitat for this species undoubtedly has been impacted by the many road crossings within its range.

Small gravel operations are common within the range of this species, and many streams are impacted by the removal of preferred substrate and by the resulting downstream sedimentation. The Saline River downstream of Benton is severely impacted by gravel dredging (Harris and Gordon 1988).

A large majority of the watershed in rivers where this mussel occurs is in timber production, with the next most common land use being agricultural production—primarily livestock and broiler chickens. Silviculture practices in the area have contributed to significant sedimentation problems. In the Alum Fork and Middle Fork Saline Rivers, where the best population and habitat occurs, an estimated 214,300 tons of sediment are transported annually (Harris and Gordon 1988). The majority of this erosion is sheet and rill, with road- and stream-bank erosion accounting for most of the remainder.

Water quality degradation apparently is responsible for the absence of the Arkansas fatmucket from a significant area within the species' probable historic range. The South Fork Caddo River receives runoff from a barite mining operation. Prairie Creek, a tributary of the Ouachita River, receives improperly treated municipal waste (Harris and Gordon 1988). Hurricane Creek and Lost Creek of the Saline River drainage receive acid mine runoff from bauxite mines. Additionally, non-point source pollution occurs from feedlot runoff, timber harvest, road construction, and fertilization for agriculture in all three river basins where this species is found.

Existing habitat in the Ouachita and Caddo Rivers is marginal at best. In a 1987–1988 survey of the mainstem Ouachita River, involving some 54 river miles of potential habitat, only 5 individuals of the Arkansas fatmucket were collected (Harris and Gordon 1988). In the Caddo River, the stream

gradient upstream of DeGray Reservoir is such that habitat is marginal and the two known populations of this species may be in jeopardy. The only known population in the Caddo River below DeGray Reservoir may be impacted by hypolimnetic water releases.

The probable historic range of this species has been reduced by over 40 percent (138 river miles), and the optimum habitat and good populations currently occur in only about 20 percent (62 river miles) of the total estimated area of historic habitat. These calculations are based upon the historic range as described in the Background section. If habitat loss were based upon the range that is indicated by archeological records, the percentage would be much greater.

B. *Over-utilization for commercial, recreational, scientific or educational purposes.* This species has not been collected for scientific purposes and does not seem to be in jeopardy from over-collecting. However, this could pose a threat to the limited populations occurring in the Ouachita, Caddo, Saline or the North Fork Saline Rivers, should someone decide to collect in these areas.

C. *Disease or Predation.* There are no known diseases or predators for this species. Muskrats have not been observed to use the species for food.

D. *The inadequacy of existing regulatory mechanisms.* The State of Arkansas requires a scientific collector's permit prior to taking any species of mollusc. However, this is an almost unenforceable regulation because of limited law enforcement personnel and more urgent priorities. Other environmental regulations will not give priority to this species unless it is listed.

E. *Other natural or manmade factors affecting its continued existence.* The life history requirements for this species, including the fish host, are unknown, making it impossible to evaluate potential impacts in this regard. The remaining populations of the Arkansas fatmucket are somewhat isolated from each other, which can lead to a loss of genetic diversity and difficulty with reproduction, especially in those streams where the population is very low. The good population in the South Fork Ouachita River (9 percent of existing habitat) is isolated from all other populations by Lake Ouachita, as is the very sparse population in the mainstem Ouachita River. The Caddo River populations are isolated from each other by DeGray Reservoir and from the Saline River populations by some 200 river miles. The Saline River drainage populations are isolated from the other populations, but they are not isolated from each other by any obvious natural barriers. However, if the fish host is not migratory, the exchange of genetic material between these populations would be a very uncommon event.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Arkansas fatmucket as threatened rather than endangered. Threatened status was chosen because the species still occurs in good numbers in the headwater streams of two river systems. This distribution makes it unlikely that all populations would be effected by a simultaneous action. Critical habitat is not designated for reasons discussed in that 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 that 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 this species at this time owing to lack of benefit from such designation. No additional benefits would accrue from a critical habitat designation that do not already accrue from the listing. Precise locality data are available to appropriate agencies through the Service office described in the ADDRESSES section. All involved parties and landowners will be notified of the location and importance of protecting this species' habitat.

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.

Protection needs of the Arkansas fatmucket should be considered during the following potential involvement by Federal agencies: The Environmental Protection Agency—pesticide registration and waste management actions; Corps of Engineers—project planning and operation, and during the permit review process: Soil Conservation Service—construction and operation of impoundments; Federal Highway Administration—bridge and road construction at points where known habitat is crossed; and possibly the Farmers Home Administration—various loan programs that may be associated with further urban development within the species' range.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23 and 17.32. Such permits are

available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. However, since the Arkansas fatmucket is not known to be involved in any commercial activity, no requests for relief under such a permit are expected.

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 proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

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

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

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to 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 Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Burch, J.B. 1975. Freshwater unionacean clams (Mollusca:Pelecypoda) of North America. Malacological Publications, Hamburg, MI. 204 pp.

Gordon, M.E., and J.L. Harris. 1985. Distribution of *Lampsilis powelli* (Lea) (Bivalvia:Unionacea). The Nautilus 99(4):142–144.

Gordon, M.E. 1980. Recent mollusca of Arkansas with annotations to systematics and zoogeography. Proc. Arkansas Acad. Sci. 34:58–62.

Gordon, M.E., L.R. Kraemer, and A.V. Brown. 1980. Unionacea of Arkansas: historical rivers, checklist, and observations on distributional patterns. Bull. Amer. Malacol. Union. 1979:31–37.

Harris, J.L., and M.E. Gordon. 1988. Status survey of *Lampsilis powelli* (Lea 1852). A report to the U.S. Fish and Wildlife Service. 43 pp. + field notes.

Johnson, R.I. 1980. Zoogeography of the North American Unionacea (Mollusca: Bivalvia) north of the maximum Pleistocene glaciation. Bull. Mus. Comp. Zool. 149:77–189.

Simpson, C.T. 1914. A descriptive catalogue of the naiades, or pearly freshwater mussels. Bryant Walker, Detroit, Pp. 75–76.

Stansbery, D.H. 1983. Some sources of nomenclatural and systematic problems in unionid mussels. Pp. 46–62 *In* A.C. Miller, compiler. Report of freshwater mussels workshop, 26–27 October 1982. U.S. Army Engineer Waterways Experiment Station, Environmental Laboratory, Vicksburg, MS.

Author

The primary author of this proposed rule is James Stewart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation 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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, ulness otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "Clams," to the List of Endangered and Threatened Wildlife.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Fatmucket, Arkansas	*Lampsilis powelli*	U.S.A. (AR)	NA	T		NA	NA

Dated: June 7, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish, Wildlife and Parks.

[FR Doc. 89-17594 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Ottoschulzia rhodoxylon (Palo de Rosa)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Ottoschulzia rhodoxylon* (palo de rosa) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Ottoschulzia rhodoxylon* is a plant that is endemic to Puerto Rico and Hispaniola. In Puerto Rico it is found in the limestone hills of the north coast, on limestone-derived soils of the south coast, and on the serpentine soils of the western mountains. Only nine individuals are known to exist in these three areas. The species is threatened by deforestation due to the expansion of residential and industrial areas and its extremely low population size. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *Ottoschulzia rhodoxylon*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 25, 1989. Public hearing requests must be received by September 11, 1989.

ADDRESSES: Comments and materials, and requests for public hearing concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:

Background

Ottoschulzia rhodoxylon (palo de rosa) was first collected by Leopold Krug near Mayaguez, Puerto Rico, in 1876 and was described in 1908. This West Indian genus of only 3 species was dedicated to Otto Eugen Schulz, a German botanist (Liogier and Martorell 1982). Today the species is known from one locality in the limestone hill area on the north coast near Bayamón and in several sites in the Guánica Commonwealth Forest, a dry limestone forest on the south coast. One individual has recently been reported from the Maricao Commonwealth Forest (G. Proctor, Puerto Rico Department of Natural Resources, personal communication). Urban, residential, and industrial expansion has greatly reduced forested area in all three of these localities. The information available indicates that the species is also rare in the Dominican Republic (Little *et al.* 1974, G. Proctor, personal communication).

Ottoschulzia rhodoxylon is a small evergreen tree that has been reported to reach 12 to 15 feet (4 to 5 meters) in height. The leaves are alternate, glabrous, and elliptic to ovate. They are from 2 to 3½ inches (5 to 9 centimeters) long and 1¼ to 2½ inches (3 to 6 centimeters) wide, rounded or blunt at the apex and the base, entire, thick, and leathery. Flowers have not been observed, but fruits have recently been described as a one-seeded drupe with a thin pericarp (G. Proctor personal communication). Flowers in this genus are bisexual, solitary or in clusters at the leaf bases, and composed of a tubular corolla with 5 lobes (Little *et al.* 1974). As indicated by both the common name and specific name, the heartwood is reddish and suitable for articles of turnery.

On the north coast *Ottoschulzia rhodoxylon* is found in semi-evergreen, seasonal forests at an elevation of approximately 325 feet (100 meters) in the limestone hills of Bayamón, to the west of the San Juan metropolitan area. On the south coast it occurs in low elevation, semi-deciduous, dry forest on limestone. One individual is found along a dry stream bed, which carries water only during periodic torrential rains. All known south coast individuals occur within the Guánica Commonwealth Forest. In Maricao it is found on serpentine soils in lower montane, semi-evergreen forest at an elevation of approximately 1,960 feet (600 meters). These serpentine outcrops and serpentinaceous soils contribute to a high floristic diversity and endemism.

Deforestation for agriculture, grazing, charcoal production, and urban and industrial development has had a significant effect on the native flora of Puerto Rico. Much of the remaining forest consists of secondary growth. Individual trees of *Ottoschulzia rhodoxylon* are known to have been lost to forest clearing. The extreme rarity of the species and the apparent irregularity of flower and fruit production make the species extremely vulnerable to the loss of any one individual.

Ottoschulzia rhodoxylon was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Service, as published in the **Federal Register** (45 FR 82480) dated December 15, 1980; the November 28, 1983, update (48 FR 53680) of the 1980 notice; and the September 27, 1985, revised notice (50 FR 39526). The species was designated category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the

Smithsonian's 1978 book as under petition within the context of Section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently found in each October of 1983 through 1988 that listing *Ottoschulzia rhodoxylon* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. This proposed rule constitutes the final finding in accordance with section 4(b)(3)(B)(iii) of the Act.

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 endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Ottoschulzia rhodoxylon* (Urban) Urban (palo de rosa) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Much of the island of Puerto Rico has been deforested, and today all of the known sites for *Ottoschulzia rhodoxylon* are found in areas of secondary forests. The north coast site lies just to the west of the San Juan metropolitan area, an area which is being rapidly developed. Undiscovered individuals in this area are likely to be destroyed before being discovered. Remaining individuals on the southwestern coast are found within the Guánica Commonwealth Forest, but they are found in sites such as dry stream beds and roadsides, which may be vulnerable to forest management practices that do not take the species into consideration.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species.

D. *The inadequacy of existing regulatory mechanism.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Ottoschulzia rhodoxylon* is not yet on the Commonwealth list. Federal listing would provide interim protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence. Ottoschulzia rhodoxylon* is limited in its distribution. Only nine individuals are known to occur in Puerto Rico. The fruits of this species were only recently described and are rarely observed. Flowers have not yet been described. The location of some individuals along stream beds makes them vulnerable to natural disturbances such as flash-flooding. Because so few individuals are known to occur, the risk of extinction is extremely high.

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 *Ottoschulzia rhodoxylon* as endangered. Only nine individuals in three areas are known to occur and no seedlings have been observed. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" 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 this species at this time. The number of individuals of *Ottoschulzia rhodoxylon* is sufficiently small that vandalism could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery and the section 7 processes of the Act.

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, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, 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 result in a 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 affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Ottoschulzia rhodoxylon*, as discussed above. Federal involvement is not expected where the species is known to occur.

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, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for listed plants the 1988 amendments (Pub. L. 100–478) to the Act prohibit their malicious damage or destruction on Federal lands, and their

removal, cutting, digging up, damage or destruction in knowing violation of any State (Commonwealth) law or regulation, including State (Commonwealth) criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth 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 for *Ottoschulzia rhodoxylon* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon 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 (424 ARLSQ), Washington, DC 20240; 703/358–2104.

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 *Ottoschulzia rhodoxylon*;

(2) The location of any additional populations of *Ottoschulzia rhodoxylon*, 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 areas and their possible impacts on *Ottoschulzia rhodoxylon*.

Final promulgation of the regulation on *Ottoschulzia rhodoxylon* 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 proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

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).

References Cited

Ayensu, E.S., and R.A. DeFilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, DC xv + 403 pp.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Río Piedras, Puerto Rico. 342 pp.

Little, E.L., Jr., R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands, Second Volume. Agriculture Handbook No. 449. U.S.D.A., Forest Service.

Author

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

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; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Icacinaceae, 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					
*	* *	* *	*		*	
Icacinaceae—Icacina family:						
Ottoschulzia rhodoxylon	Palo de rosa	U.S.A. (PR), Dominican Republic	E		NA	NA
*	* *	* *	*		*	

Dated: June 6, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–17596 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 54, No. 143
Thursday, July 27, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 21, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Revision

- Farmers Home Administration

7 CFR 1942–G, Industrial Development Grants
None
Recordkeeping; On occasion; Monthly; Quarterly
State or local governments; Non-profit institutions; Small businesses or organizations; 1,615 responses; 3,177 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

- Farmer Home Administration

7 CFR 1980–B, Guaranteed Farmer Program Loans
FmHA 449–11, 1980–15, –24, –25, –38, –58
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; 56,990 responses; 51,385 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

Extension

- Forest Service

Disposal of Mineral Materials (36 CFR Part 228, Subpart C)
FS–2800–9, R1–FS–2850–1
On occasion; Annually
Individuals or households; Businesses or other for-profit; Federal agencies or employees; State or local governments; Non-profit institutions; Small businesses or organizations; not applicable under 3504(h)
Steve Marshall (703) 235–3142

- Agricultural Stabilization and Conservation Service

7 CFR Part 719—Record of Pooled Farm Allotment, Quota, or Acreage Base and Application for Transfer of Allotment, Quota, or Acreage Base From Pool
ASCS–177; ASCS–178
On occasion
Individuals or households; Farms; 6,000 responses; 3,000 hours; not applicable under 3504(h)
Star Bryant (202) 447–8573

- Office of Personnel

Advisory Committee Membership Background Information
AD–755
Biennially
Individuals or households; 500 responses; 250 hours; not applicable under 3504(h)
Carolyn T. Wright (202) 447–3083

New Collection

- Food and Nutrition Service

Evaluation of State-Initiated Electronic Benefit Transfer Demonstrations
Various questionnaires
On occasion
State or local governments; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 9,051 responses; 1,330 hours; not applicable under 3504(h)
Carol Olander (703) 756–3115

Emergency

- National Agricultural Statistics Service

Animal Damage Control Survey
One-time survey
Farms; 15,000 responses; 2,500 hours; not applicable under 3504(h)
Larry Gambrell (202) 447–7737

Larry K. Roberson,
Acting Departmental Clearance Office.
[FR Doc. 89–17517 Filed 7–26–89; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

North Fork Kern and South Fork Kern Wild and Scenic Rivers, CA: Availability of Boundary Descriptions and Classifications

AGENCY: Forest Service, Agriculture.
ACTION: Notice of Availability.

SUMMARY: The boundaries and classifications for the North Fork Kern and South Fork Kern Wild and Scenic Rivers have been established. The rivers boundaries and classifications may be reviewed at the following Forest Service offices: Office of the Chief, 12th and Independence Avenue, SW., Washington, DC 20250; Sequoia National Forest office, 900 W. Grand Avenue, Porterville, CA 93257; and Pacific Southwest Regional office, 630 Sansome Street, San Francisco, CA 94111.

Joyce T. Muraoka,
Director, Planning and Budget.
[FR Doc. 89–17582 Filed 7–26–89; 8:45 am]
BILLING CODE 3410–11–M

Lost Silver Timber Sale; Flathead National Forest, Hungry Horse District, Flathead County, MT

AGENCY: Forest Service, USDA.
ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of a proposal to harvest timber and construct roads in portions of Lost Johnny Creek and Doris Creek drainages, on the Hungry Horse Ranger District. This EIS will tier to the Flathead National Forest Land and Resource Management Plan and EIS of

January, 1986, which provide overall guidance in acheiving the desired future condition for the area. The primary purpose and goal for the proposed action is to help satisfy short-term demands for timber and maintain a continuous supply of timber in the future.

While some preliminary scoping was done for this project during the preparation of an Environmental Assessment for Lost Silver in 1986–87, the Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may now be interested in or affected by the proposed actions. This input will be used in preparing the Draft EIS. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies and task assignments.

The agency invites written comments and suggestions on the issues and management opportunties in the area being analyzed.

DATE: Comments concerning the scope of the analysis should be received by August 11, 1989 to receive timely consideration in the preparation of the draft EIS.

ADDRESS: Send written comments to Allen L. Christophersen, District Ranger, Hungry Horse Ranger District, P.O. Box 340, Hungry Horse, MT 59919.

FOR FURTHER INFORMATION CONTACT: Steve Penner, Lost Silver Interdisciplinary Team Leader, or Allen Christophersen, District Ranger, at (406) 387–5243.

SUPPLEMENTARY INFORMATION: Management activities under consideration would occur in an area encompassing approximately 7000 acres of National Forest lands in the West Side Geographic Unit, on the Hungry Horse Ranger District, as delineated in the Flathead Forest Plan. Included in the area of analysis are all or portions of the following: sections 35 and 36, T3ON, R19W, and section 1–3, 8–17, 21–23, and 26, T29N, R19W, Principal Montana Meridian. Management activities may include the construction of approximately five miles of new roads and the harvesting of approximately 500 acres of timber within the area of consideration. Some of these activities may occur within Forest Inventoried Roadless Area SC–485.

The Land and Resource Management Plan for the Flathead National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. In the Forest Plan, timber harvest and road construction was tentatively scheduled in the Doris Creek and Lost Johnny Creek drainages in 1986.

Most areas of proposed harvest and road construction for the Lost Silver project are within Management Area 15. Forest plan direction states that Management Area 15 consists of lands where timber management with roads is economical and feasible. The management goal is to manage those lands suitable for timber production for the long-term growth and production of commercially valuable wood products as well as provide for soil and water protection, wildlife habitat, and roaded recreation opportunities.

In addition, road construction, re-construction, and timber harvest and reforestation may occur within Management Area 12 (riparian areas along perennial streams) or Management Area 17 (riparian areas with typically intermittent streams). Management goals for Management Area 12 are to emphasize old-growth habitat, water quality and fisheries and vegetative diversity for wildlife habitat. Goals for Management Area 17 are similar, and also include maintaining a sustained yield of timber.

The analysis will consider a range of alternatives. One of these will be the "no-action" alternative, in which the harvest and road construction activities would not be implemented. Other alternatives will examine various levels and locations of harvest and road construction to provide emphasis on differing mixes of timber and non-timber resource values.

The analysis will disclose the environmental effects of alternative ways of implementing the Forest Plan. The EIS will disclose the analysis of the direct, indirect, and cumulative environmental effects of the alternatives. In addition, the EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation is especially important at several points of the analysis. People may visit with Forest Service officials at any time during the analysis and prior to the decision. However, two periods of time are identified for the receipt of comments on the analysis. The two public comment periods are during the scoping process (now thru August 11, 1989) and in the review of the Draft EIS (February–March, 1990). The Forest Service has not yet determined whether any public meetings will be held.

The Fish and Wildlife Service, Department of the Interior, will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the EIS and biological evaluation and if necessary, render a formal Biological Opinion of the effects of the Threatened and Endangered Species including grizzly bear, gray wolf, and bald eagle.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in February, 1990. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The public comment period on the draft EIS will be 45 days from the date when the EPA's notice of availability appears in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or

chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

Following this comment period, the comments received will be analyzed, considered and responded to by the Forest Service in the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by May 1990. The District Ranger for the Hungry Horse Ranger District, Flathead National Forest is the responsible official for the preparation of this EIS and will make a decision regarding this proposal considering the comments and responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and rationale for the decision will be documented in a Record of Decision. That decision will be subject to appeal under applicable Forest Service regulations.

Date: July 18, 1989.

Allen L. Christophersen,

District Ranger, Hungry Horse Ranger District, Flathead National Forest.

[FR Doc. 89-17539 Filed 7-26-89; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 90767-9167]

National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Publication of NVLAP Directory Supplement.

SUMMARY: The National Institute of Standards and Technology (NIST) announces laboratory accreditation actions taken during the second quarter of 1989.

FOR FURTHER INFORMATION CONTACT: John Donaldson, Manager, Laboratory Accreditation, Building 411, Room A124, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975-4016.

SUPPLEMENTARY INFORMATION: This supplement to the 1979 NVLAP Directory of Accredited Laboratories (NISTIR 89-4056) is published pursuant to § 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.68(b)).

The following summarizes NVLAP accreditation actions for other than bulk asbestos analysis for the period April 1, 1989 through June 30, 1989.

Laboratories awarded initial accreditation are:

TIM: Architectural Testing, Inc., York, PA, Scott A. Warner, 717-846-7700
TIM: Warnock Hersey International, Inc., Middleton, WI, Rich Curkeet, 608-836-4400
ECT: Digital Communications Associates, Inc., Alpharetta, GA, Michael E. Canty, 404-442-4627
CTS: CGC, Inc., Leesburg, VA, Bruce Clendenin, 703-478-8643
CTS: Eastern National Enterprises, Inc., New Britain, CT, Thomas F. Tallmadge, 203-224-3316
CTS: Malcolm Pirnie, Inc. Soils Testing Lab., Orchard Park, NY, Anne Marie C. McManus, 716-828-1300
CTS: New Haven Testing Laboratory, Inc., New Haven, CT, George Guiliotis, 203-772-0710

Laboratories whose accreditations were renewed after a lapse are:

DOS: Atomic Energy Industrial Laboratory of the Southwest, Inc., Houston, TX, Steven H. Allen, 713-790-9719

Laboratories whose accreditations were terminated are:

TIM: Dow Chemical U.S.A., North Haven Laboratories, North Haven, CT
CTS: University of Nevada-Reno Center for Construction Materials Research, Reno, NV

Program abbreviations are:

TIM—Thermal Insulation Materials
ECT—Electromagnetic Compatibility and Telecommunications
CTS—Construction Testing Services
DOS—Personnel Radiation Dosimetry Processing

The accompanying table lists testing laboratories receiving initial accreditation, during the period April 1, 1989 through June 30, 1989, to perform bulk asbestos analysis in accordance with 40 Code of Federal Regulations Chapter I (1-1-87 edition) Part 763, Subpart F, Appendix A pages 293-299 or the current U.S. Environmental Protection Agency method for the analysis of asbestos in building materials by polarized light microscopy. This table supersedes those published in the Federal Register on April 26, 1989 and June 20, 1989.

Raymond G. Kammer,

Acting Director.

Dated: July 21, 1989.

Laboratories Accredited by NVLAP to Perform Bulk Asbestos Analysis (Alphabetically Listed by State)

Hunter Services, Inc., 1205 East International Airport Road, #100 Anchorage, AK 99519, Phone: 904-561-3055
Professional Service Industries, Inc., 700 W. 58th Ave., Units A & B, Anchorage, AK 99518, Phone: 907-561-2400
ATEC Associates, Inc., 129 West Valley Avenue, Birmingham, AL 35209, Phone: 205-945-9224
American Microscopy Lab, Inc., 29 Heritage Hills, Tuscaloosa, AL 35406, Phone: 205-345-2555
BCM Engineers Inc., 104 St. Francis Street, Suite 400, P.O. Box 1784, Mobile, AL 36633, Phone: 205-433-0517
Chem-Ray, Inc., P.O. Box 821, Florence, AL 35631, Phone: 205-766-4345
EnviroChem Inc., 762 Downtowner Loop West, Mobile, AL 36609, Phone: 205-344-7711
Fiber Lab, Inc., P.O. Box 36726, Birmingham, AL 35236, Phone: 205-822-8544
Harmon Engineering Associates, 1550 Pumphrey Avenue, Auburn, AL 36830, Phone: 205-821-9250
Law Engineering, Inc., 3608 7th Court, South, P.O. Box 10244, Birmingham, AL 35202, Phone: 205-252-9901
Professional Contract Services, Inc., 1105 Fitzpatrick Avenue, P.O. Box 2605, Opelika, AL 36803, Phone: 205-749-2636
Weston-ATC Mobile Facility, 1635 Pumphrey Avenue, Auburn, AL 36830, Phone: 205-826-6100
Weston-ATC, Inc., 1635 Pumphrey Avenue, Auburn, AL 36830, Phone: 205-826-6100
Arkansas Department of Health, 4815 W. Markham, Little Rock, AR 72205, Phone: 501-661-2389
EEG, Inc., 220A N. Knoxville, Russellville, AR 72801, Phone: 501-968-6767
Environmental Services Company, Inc., 13715 West Markham, Little Rock, AR 72211, Phone: 501-221-2566
Fiberquant, Inc., 4824 S. 35th St., Phoenix, AZ 85040, Phone: 602-276-6138
Microprobe, 5104 East Burns Street, Tucson, AZ 85711, Phone: 602-745-1189
Southwest Hazard Control Inc., 5400 West Massingale Road, Tucson, AZ 85743, Phone: 602-744-1060
University Associates, Ltd., 2425-A N. Huachuca Drive, Tucson, AZ 85745, Phone: 602-624-9366
ACCULAB Environmental Services, 3700 Lakeville Hwy., Petaluma, CA 94952, Phone: 707-778-4160
Aerojet Solid Propulsion Co., Hazel and Highway 50, Sacramento, CA 95852, Phone: 916-355-4051
Aerojet TechSystems Company, Quality Assurance Testing Laboratory, P.O. Box 13222, Dept. 9410, Bldg. 2004, Sacramento, CA 95813, Phone: 916-355-3496
Analytical Research Laboratories, Inc., 160 Taylor Street, Monrovia, CA 91016, Phone: 818-357-3247
Applied Petrography, Inc., 6520 Sorensen Avenue, Suite E., Santa Fe Springs, CA 90670, Phone: 213-945-3468

Asbestos Detection Co., Inc., 12755 Brookhurst Street, Suite 206, Garden Grove, CA 92640, Phone: 714–530–1922
Associated Safety Consultants, 13363 Saticoy Street, Suite 204, North Hollywood, CA 91605, Phone: 818–503–0471
CAM Lab, 9525 Slauson Avenue, Pico Rivera, CA 90660, Phone: 213–942–8668
California Water Labs, 1430 Carpenter Lane, Modesto, CA 95352, Phone: 209–527–4050
Certified Engineering & Testing Co., Inc., 725 Greenwich St., #204, San Francisco, CA 94133, Phone: 415–986–6872
Clark Geological Services, 3479 Edison Way, Fremont, CA 94538, Phone: 415–659–1784
Clayton Environmental Consultants, Inc., 1252 Quarry Lane, Pleasanton, CA 94566, Phone: 415–426–2600
Control Laboratories, Inc./Toxscan Inc., 42 Hangar Way, Watsonville, CA 95076, Phone: 408–724–4522
Dan Napier & Associates, 15342 Hawthorne Boulevard Suite 207, P.O. Box 1540, Lawndale, CA 90260, Phone: 213–644–1928
Dyer Laboratories, Inc., 2531 West 237th Street #121, Torrance, CA 90505, Phone: 213–530–3322
EMS Laboratories, Inc., 211 Pasadena Avenue, South Pasadena, CA 91030, Phone: 213–257–2002
Environmental Innovations Corp. (EIC), 675 Hegenberger Road, Suite 110, Oakland, CA 94621, Phone: 415–632–0140
EssTek, 9041–17 Dice Road, Santa Fe Springs, CA 90670, Phone: 303–425–0013
Esstek, 3045 Teagarden Street, San Leandro, CA 94577, Phone: 303–425–0013
Eureka Laboratories, Inc., 3401 La Grande Blvd., Sacramento, CA 95823, Phone: 916–381–7953
Forensic Analytical Specialties, Inc., 3777 Depot Road, Suite 408, Hayward CA 94545, Phone: 415–887–8828
Hall-Kimbrell Environmental Services Inc., 648 S. Bree Canyon Road, Walnut, CA 91789, Phone: 714–594–3232
Hanlon Laboratories, 8801 Folsom Blvd., Suite 145, Sacramento, CA 95826, Phone: 916–386–2153
I.T. Corporation—A California Corp., 17605 Fabrica Way, Cerritos, CA 90701, Phone: 213–921–9831
Kellco Services, Inc., 44814 Osgood Rd., Fremont, CA 94539, Phone: 415–659–9751
Kellco Services, Inc., 8421 Auburn Avenue, Citrus Heights, CA 95610, Phone: 916–722–7997
Kemron Environmental Services, 14340 Bolsa Chica, Suite C, Westminster, CA 92683, Phone: 714–373–1194
Los Angeles City, Department of Water & Power, P.O. Box 111, 1630 N. Main St., Bldg. 7, Los Angeles, CA 90051, Phone: 213–481–6691
McCrone Environmental Services—Calif., 120 Newport Center Drive, Suite 240, Newport Beach, CA 92660, Phone: 714–759–6619
Microanalytical Services, Inc., 201 South Lake Avenue, Suite 402, Pasadena, CA 91101, Phone: 818–356–7400
National Asbestos Laboratories Inc., 2235 Polvorosa Ave., Suite 220, San Leandro, CA 94577, Phone: 415–786–0801
PACE Laboratories, Inc., 11 Digital Drive, Novato, CA 94949, Phone: 415–883–6100
Particle Diagnostics, Inc., 1274 Morena Boulevard, San Diego, CA 92110, Phone: 619–276–2200
Precision Micro-Analysis, 5665 Power Inn Road, Suite 102, Sacramento, CA 95824, Phone: 916–381–0695
RJ Lee Group, Inc., 2424 Sixth Street, Berkeley, CA 94710, Phone: 415–486–8319
Schwein/Christensen Engineering, Ltd., 3397 Mt. Diablo Blvd., Suite E, Lafayette, CA 94549, Phone: 415–284–3311
South Coast Air Quality Management Dist., 9150 Flair Drive, El Monte, CA 91731, Phone: 818–572–6430
Thermo Analytical Inc./TMA—Norcal, 2030 Wright Ave., Richmond, CA 94804, Phone: 415–235–2633
University Associates, Ltd., 2725 Congress Street, Suite 2A, San Diego, CA 92110, Phone: 619–294–7200
Analytica, Inc., 5930 McIntyre Street, Golden, CO 80403, Phone: 303–279–2583
DCM Science Laboratory, 12975 West 24th Place, Golden, CO 80401, Phone: 303–237–0110
Public Service Co. of Colorado, Central Chemistry Laboratory, 1500 West Hampden Avenue, Bldg. #5–H, Englewood, CO 80110, Phone: 303–797–4110
Aetna Life & Casualty Co., 575 Pigeon Hill Road, Windsor, CT 06095, Phone: 202–683–3647
Brooks Laboratories, Inc., 44 Codfish Lane, Weston, CT 06883, Phone: 203–226–6384
Chemscope, Inc., P.O. Box 389, Fair Haven Station, New Haven, CT 06513, Phone: 203–468–0055
Connecticut Dept. of Health Services, 10 Clinton Street, P.O. Box 1689, Hartford, CT 06106, Phone: 203–566–5626
EnviroMed Services Inc., 25 Science Park, New Haven, CT 06511, Phone: 203–786–5580
Environmental Health Laboratory, 94 Murphy Road, Hartford, CT 06114, Phone: 203–522–3814
Hartford Steam Boiler, Environmental Services Laboratory, One State Street, Hartford, CT 06102, Phone: 203–722–5476
Olin Environmental Hygiene Laboratory, 91 Shelton Avenue, New Haven, CT 06511, Phone: 203–781–5613
TRC-Environmental Consultants, Inc., 800 Connecticut Blvd., East Hartford, CT 06108, Phone: 203–289–8631
Testwell Craig Labs of Connecticut, Inc., 25 Henry Street, Bethel, CT 06801, Phone: 203–743–7281
Batta Environmental Assoc., Inc., 6 Garfield Way, Newark, DE 19713, Phone: 302–737–3376
Medlab, Inc., P.O. Box 2045, Wilmington, DE 19899, Phone: 302–994–5764
ATEC Associates, Inc., 4845 Rosselle Street, Jacksonville, FL 32205, Phone: 904–387–6404
ATEC Associates, Inc., Miami Office, 2990 NW 40 Street, Miami, FL 33142, Phone: 305–633–2700
ATEC Environmental Consultants, 1535 Cogswell Street, Suite A5, Rockledge, FL 32955, Phone: 407–639–9069
Advanced Industrial Hygiene Services, Inc., 2131 SW 2 Ave., Miami, FL 33129, Phone: 305–854–7554
Briggs Associates, Inc., 4401 Vineland Road, Suite A9, Orlando, FL 32811, Phone: 407–422–3522
International Abatement Management, Inc., 550 North Reo Street, Suite 300, Tampa, FL 33609, Phone: 813–287–5100
KNL Laboratory Services, 2742 N. Florida Ave./P.O. Box 1833, Tampa, FL 33601, Phone: 813–229–2879
Law Engineering, Inc., 4919 West Laurel Street, Tampa, FL 33607, Phone: 813–289–0750
Micro Analytical Laboratories, Inc., 3618 N.W. 97th Blvd., Gainesville, FL 32606, Phone: 904–332–1701
PACE Laboratories, Inc., 5460 Beaumont Center Blvd., Tampa, FL 33634, Phone: 913–884–8268
Pensacola P.O.C., Inc., 109 South Second Street, Pensacola, FL 32507, Phone: 904–456–4406
Professional Service Industries, Inc., 3901 N.W. 29th Avenue, Miami, FL 33142, Phone: 305–633–7555
Soil & Material Engineers, 5909 Breckenridge Parkway, Tampa, FL 33610, Phone: 813–620–1633
Southeastern Marine Chemists Inc., Southeastern Chemists Laboratories, 170 Arlington Rd., Jacksonville, FL 32211, Phone: 904–725–2040
Testwell Craig Labs of Florida, Inc., 7104 Northwest 51st Street, Miami, FL 33166, Phone: 305–593–0561
Thornton Laboratories, Inc., 1145 E. Cass St., Tampa, FL 33602, Phone: 813–223–9702
ATEC Associates, Asbestos Lab, 1300 Williams Drive, Suite A, Marietta, GA 30066, Phone: 404–427–9456
Applied Environmental Testing Labs, Inc., 680 Thornton Way, Suite 202, P.O. Box 959, Lithia Springs, GA 30057, Phone: 404–948–4919
Clayton Environmental Consultants, Inc., 400 Chastain Center Blvd., NW, Suite 490, Kennesaw, GA 30144, Phone: 404–499–7500
Electron-Microscopy Service Labs, Inc., 1800 Peachtree St., NW, Suite 305, Atlanta GA 30309, Phone: 404–355–4046
Environmental Analytical Laboratories, Cobb Corporate Center, Suite 300, 350 Franklin Road, Marietta, GA 30067, Phone: 404–425–9901
GTRI Microscopy Research Laboratory, 151 Sixth Street, O'Keefe Building, Atlanta, GA 30332, Phone: 404–894–3806
Geo-Environmental Services, Inc., 141 West Wieuca Road, Suite 200A, Atlanta, GA 30342, Phone: 404–257–9303
Law Associates, Inc., 1386 Mayson Street, Atlanta, GA 30144, Phone: 404–892–3200
Materials Analytical Services, Inc., 3597 Parkway Lane, Suite 250, Norcross, GA 30092, Phone: 404–448–3200
McCrone Environmental Services, Inc., 1412 Oakbrook Dr., Suite 100, Norcross, GA 30093, Phone: 404–368–9600
Schweiger & Associates, 2022 Powers Ferry Road, Suite 180, Atlanta, GA 30339, Phone: 404–988–9250
Soil & Material Engineers, 3980 DeKalb Technology Parkway, Atlanta, GA 30340, Phone: 404–452–1911
EnvironMETeo Services, Inc. (EMET), 94–463 Ukee Street, Suite A, Waipahu, HI 96797 Phone: 808–671–8383

HECo Safety Division, Industrial Hygiene Section, 820 Ward Avenue, Honolulu, HI 96813, Phone: 808–548–7386
Unitek Environmental Consultants, Inc., 2889 Mokumoa St., Honolulu, HI 96819, Phone: 808–834–1444
Ames Environmental Inc., 3910 Lincoln Way, Ames, IA 50010, Phone: 515–292–3400
CHART Services Ltd., 4725 Merle Hay Road, Suite 214, Des Moines, IA 50322, Phone: 515–278–3642
Midwestern Testing Labs, Inc., 55½ N. Main, P.O. Box 1657, Fairfield, IA 52556, Phone: 515–472–1881
Net Midwest, Inc., P.O. Box 625, 704 Enterprise Drive, Cedar Falls, IA 50613, Phone: 319–277–2401
University of Iowa, University Hygienic Laboratory, Iowa City, IA 52240, Phone: 319–335–4500
HAZTOX, Inc., 820 North Linder Road, Meridian, ID 83642, Phone: 208–888–7121
ABS Environmental Labs Inc., 605 Brookside, Frankfurt, IL 60423, Phone: 815–469–4464
Air Tech Associates, Inc., 4100 Madison Lower Level 4, Hillside, IL 60162, Phone: 312–547–8117
Analytical Laboratory for Environmental Excellence Inc., 485 Frontage Road, Burr Ridge, IL 60521, Phone: 312–789–6080
Anasbestics Company, 7206 W. 90th Place, Bridgeview, IL 60455, Phone: 312–598–2921
BCA Laboratories, 1102 S. Main St., Bloomington, IL 61701, Phone: 309–828–7772
Beling Consultants, Inc., 1001 16th Street, Moline, IL 61265, Phone: 309–757–9800
Carnow, Conibear & Associates, Ltd., 333 W. Wacker Drive, Suite 1400, Chicago, IL 60606, Phone: 312–782–4486
Clean Air Engineering, 207 N. Woodwork Lane, Palatine, IL 60067, Phone: 312–991–3300
Daily Analytical Laboratories, 1621 W. Candletree Drive, Peoria, IL 61614, Phone: 309–692–5252
Fay Goldblatt Laboratories, Inc., 5225 Old Orchard Road, Suite 2, Skokie, IL 60077, Phone: 312–251–8338
Gabriel Laboratories, Ltd., 1421 North Elston Avenue, Chicago, IL 60622, Phone: 312–486–2123
ITL/Bascor, 5960 North Milwaukee Avenue, Chicago, IL 60646, Phone: 312–792–2454
John Mathes & Associates, Inc., 210 West Sand Bank Road, P.O. Box 330, Columbia, IL 62236, Phone: 618–281–7173
Micro-Fiber Laboratories, Inc., 605 Landwehr Road, Northbrook, IL 60062, Phone: 312–498–4127
P.A.T. Services, 508 N.E. Monroe, Peoria, IL 61603, Phone: 309–673–5919
Parkland Laboratories, 2935 Clearlake Avenue, Springfield, IL 62702, Phone: 217–525–2935
Randolph & Associates, Inc., 8901 N. Industrial Rd., Peoria, IL 61615, Phone: 309–692–4160
Randolph & Associates, Inc., 5440 North Cumberland Ave., Suite 111, Chicage, IL 60656, Phone: 312–693–6030
Sea, Earth, & Air Environmental Consult., 5787 N. Lincoln Avenue, Chicago, IL 60659, Phone: 312–878–8337
Stat Analysis Corporation, Chicago Technology Park, 2201 W. Campbell Park Drive, Chicago, IL 60612 Phone: 312–763–3400
Suburban Environmental Consultants, Ltd., 18031 Dixie Highway, Homewood, IL 60430, Phone: 312–335–1807
TEM, Inc., 443 Duane Street, Glen Ellyn, IL 60137, Phone: 312–790–0880
United Analytical Services, Inc., 4410 W. Roosevelt Road, Suite 101, Hillside, IL 60162, Phone: 312–449–0070
ATEC Associates, Inc., 5150 East 65th Street Indianapolis, IN 46220, Phone: 317–849–4990
ATEC Associates, Inc., 1501 E. Main Street, Griffith, IN 46319, Phone: 219–924–6690
Asbestos Compliance Technology, Inc. of Indiana, 5353 N. Tacoma Avenue Indianapolis, IN 46220, Phone: 317–257–5096
Cole Associates Inc. 2211 East Jefferson Boulevard, South Bend, IN 46615 Phone: 219–236–4400
EIS Environmental Engineers, Inc., 1701 North Ironwood Drive, South Bend, IN 46635, Phone: 219–277–5715
Environmental Analytical Laboratories, 314 S. State Avenue, Indianapolis, IN 46201, Phone: 317–269–3618
Micro Air, Inc. 7132 Lakeview Parkway West Drive Indianapolis, IN 46268, Phone: 317–293–1533
Micro Air, Inc. 7132 Lakeview Parkway West Drive Indianapolis, IN 46268 Phone: 317–293–1533
Walker & Ward, 9119 Formington Drive P.O. Box 12015 Evansville, IN 47712 Phone: 812–985–7877
Zimmerlin Consulting Group 3420 East 96th Street, Suite A Indianapolis, IN 46240
ACT, 14953 West 101 Terrace, Lenexa, KS 66215, Phone: 913–492–1337
ALERT Analytical Laboratories, 1900 West 47th Place, Westwood, KS 66205, Phone: 913–831–4516
CHART Services Ltd 12616 W. 62nd Terrace, Suite 118 P.O. Box 18 Shawnee, KS 66216, Phone: 913–268–0715
Certified Environmental Management, Inc. 5613 S. Cunningham Road Gypsum, KS 67448, Phone: 913–536–4226
Hall-Kimbrell Environmental Services Inc., 4840 West 15th Street, Lawrence, KS 66046, Phone: 913–749–2381
Pace Laboratories, Inc., 2005 West 103rd Terrace, Leawood, KS 66206, Phone: 913–341–7800
CRU Incorporated, P.O. Box 24467, Louisville, KY 40224, Phone: 502–426–8860
Chemalytics, Inc., 33 East 7th Street, Covington, KY 41011, Phone: 606–431–6224
Metro Service Laboratories, Inc., 6309 Fern Valley Pass, Louisville, KY 40228, Phone: 502–964–0865
Central Analytical Laboratories, Inc., 2600 Marietta Street, Kenner, LA 70062, Phone: 504–469–3511
Kemron Environmental Services, 16550 Highland Road, Baton Rouge, LA 70810, Phone: 504–293–8650
Sunbelt Associates, Inc., 6961 Mayo Blvd., New Orleans, LA 70126, Phone: 504–286–6798
Waldemar S. Nelson and Company, Inc., 1200 St. Charles Ave., New Orleans, LA 70130, Phone: 504–523–5281
Weintritt Testing Laboratories, Inc., 305 Andrew Guidry Road, Lafayette, LA 70503, Phone: 318–981–1560
Air Quality Consultants, Inc., 406 Libbey Parkway, Weymouth, MA 02189, Phone: 617–337–7320
Briggs Associates, Inc., 400 Hingham Street, Rockland, MA 02370, Phone: 617–871–6040
Certified Engineering & Testing Co., Inc., 25 Mathewson Drive, Weymouth, MA 02189, Phone: 617–337–7887
Con-Test, Inc., 39 Spruce Street, East Longmeadow, MA 01028, Phone: 413–525–1198
Covino Environmental Consultants, Inc., 12 Walnut Hill Park, Woburn, MA 01801, Phone: 617–933–2555
Dennison Environmental, Inc., 35 Industrial Parkway, Woburn, MA 01801, Phone: 617–932–9400
ESA Laboratories, Inc., 43 Wiggins Avenue, Bedford, MA 01730, Phone: 617–275–0100
Enviro-Lab, Inc., 154 Grove Street, Chicopee, MA 01020, Phone: 413–592–0030
Hygeia, Inc., 303 Bear Hill Road, Waltham, MA 02514, Phone: 517–647–9475
Hygienetics Analytical Services, Inc., 150 Causeway Street, Boston, MA 02114, Phone: 617–723–4664
Massachusetts Materials Research, Inc., 241 West Boylston Street, P.O. Box 810, West Boylston, MA 01583, Phone: 617–835–6262
Norwich Laboratories, Inc., 750 North Pleasant St., Amherst, MA 01002, Phone: 413–549–6884
AMA Analytical Services, Inc., 4475 Forbes Boulevard, Lanham, MD 20706, Phone: 800–459–2640
ATEC Associates, Industrial Hygiene Division, 8989 Herrmann Dr., Columbia, MD 21045, Phone: 301–381–0232
Apex Environmental, Inc., 7652 Standish Place, Rockville, MD 20855, Phone: 301–217–9200
Biospherics Incorporated, 12051 Indian Creek Court, Beltsville, MD 20705, Phone: 301–369–3900
Briggs Associates, Inc., 8300 Guilford Road, Suite E, Columbia, MD 21046, Phone: 301–381–4434
Geo-Environmental Services, Inc., 444 North Frederick Ave., Suite L–148, Gaithersburg, MD 20877, Phone: 301–353–0338
Maryland Department of Health and Mental Hygiene, 201 W. Preston Street, P.O. Box 2355, Baltimore, MD 21203, Phone: 301–225–6212
OMC, Inc., 4451 Parliament Place, Lanham, MD 20706, Phone: 202–488–7990
Tracor Technology Resources, Inc., 1601 Research Blvd. Rockville, MD 20850, Phone: 301–984–2741
Allied Engineering, Inc., 11 Columbia Street, Augusta, ME 04330, Phone: 207–623–9299
Balsam Environmental Consultants, Inc., 225 Western Avenue, Augusta, ME 04330, Phone: 603–983–0616
Northeast Test Consultants, 587 Spring Street, Westbrook, ME 04092, Phone: 207–854–3939
Alderink & Associates, Inc., 3221 3 Mile Road NW, Grand Rapids, MI 49504, Phone: 616–791–0730
Asbestos Management Inc., 36700 South Huron Road, Suite 104, New Boston, MI 48164, Phone: 313–961–6135
Clayton Environmental Consultants, Inc., 22345 Roethel Drive, Novi, MI 48050, Phone: 313–344–1770

DeLisle Consulting & Laboratories, Inc., 6946 East N Avenue, Kalamazoo, MI 49001, Phone: 616–343–9698
ERT Testing Services, Inc., 211 Glendale, Suite 425, Highland Park, MI 48203, Phone: 313–865–0600
Environmental Evaluation and Lab Serv., 225 Parsons St., Box 1665, Kalamazoo, MI 49007, Phone: 616–388–8099
IHI-KEMRON, 32740 Northwestern Hwy., Farmington Hills, MI 48018, Phone: 313–626–2426
Industrial Environmental Consult., Ltd., East Line Office Park, 1760 East Grand River, East Lansing, MI 48823, Phone: 517–351–4002
Sierra Analytical & Consulting Services, 307 North First Street, Ann Arbor, MI 48103, Phone: 313–662–1155
Testing Engineers and Consultants, Inc., 1333 Rochester Rd., P.O. Box 249, Troy, MI 48099, Phone: 313–588–6200
Applied Environmental Sciences, Inc., 511 11th Ave. S., Box 220, Minneapolis, MN 55415, Phone: 612–339–5559
Braun Environmental Laboratories, Inc., 6800 South County Road 18, P.O. Box 35108, Minneapolis, MN 55435, Phone: 612–941–5600
Institute For Environmental Assessment, 2829 Verndale Avenue, Anoka, MN 55303, Phone: 612–427–5310
NOVA Environmental Services, Inc., Suite 420, 1107 Hazeltine Boulevard, Chaska, MN 55318, Phone: 612–448–8888
PACE Laboratories, Inc., 1710 Douglas Drive N., Minneapolis, MN 55422, Phone: 612–544–5543
Twin City Testing Corporation, 662 Cromwell Avenue, St. Paul, MN 55114, Phone: 612–649–5000
Baird Scientific, 221 W. Fourth Street, P.O. Box 842, Carthage, MO 64836, Phone: 417–358–5567
IPRSS Asbestos Analysis Labs, Inc., 503 Main Street, Belton, MO 64012, Phone: 816–331–4922
Industrial Testing Laboratories, Inc., 2350 South 7th Blvd., St. Louis, MO 63104, Phone: 314–771–7111
Microscopic Analysis, Inc., 989 Gardenview Office Parkway, St. Louis, MO 63141, Phone: 314–993–2212
Midwest Environmental Testing & Training, 612 West 3rd Street, Unit B, Lee's Summit, MO 64063, Phone: 816–525–6681
University of Missouri—Kansas City, Chemistry Department, Kansas City, MO 64110, Phone: 816–276–2289
Bonner Analytical Testing Company, Rt. 14, Box 509, Hattiesburg, MS 39402, Phone: 601–264–2854
Environmental Protection Systems, 165 Upton Drive, Jackson, MS 39209, Phone: 601–922–8242
Micro-Methods, Inc., 6500 Sunplex, Ocean Springs, MS 39564, Phone: 601–875–6423
Northern Engineering & Testing, Inc., 600 South 25th St., Billings, MT 59107, Phone: 406–248–9161
Asbestos Analysis & Information Service, P.O. Box 837, Four Oaks, NC 27524, Phone: 919–894–2804
Carolina Environmental, 5104 Suite 201–C Western Boulevard, Raleigh, NC 27606, Phone: 919–859–0477
E.I. de Pont de Nemours & Company, Inc., Cape Fear Plant—PD, P.O. Box 2042, Wilmington, NC 28402, Phone: 919–371–4257
EEC, Inc., 2245 North Hills Drive, Suite J, Raleigh, NC 27612, Phone: 919–782–8910
Ecosafe Industrial Hygiene Laboratory, 1713 Chapel Hill Road, Durham, NC 27707, Phone: 919–493–2612
EnviroSciences Inc., 3810 F Merton Drive, Raleigh, NC 27609, Phone: 919–782–1487
Health & Hygiene, Inc., 4605–E Dundas Drive, Greensboro, NC 27407, Phone: 919–854–2303
Law Engineering, 501 Minuet Lane, Charlotte, NC 28210, Phone: 704–523–2022
NSI–ES Analytical Services Laboratory, 2 Triangle Drive, P.O. Box 12313, Research Triangle Park, NC 27709, Phone: 919–549–0611
Quality Analytical Services, Inc., 709 West Johnson St., Raleigh, NC 27603, Phone: 919–839–0757
Roberts Environmental Services, Inc., P.O. Box 308, Swansboro, NC 28584, Phone: 919–393–6565
Soil & Material Engineers, 9800–D Southern Pines Blvd., P.O. Box 7668, Charlotte, NC 28217, Phone: 704–523–4726
TEI Environmental, Inc., 308A Pomona Dr., Greensboro, NC 27407, Phone: 919–852–0318
Amoco Oil Company Mandan Refinery, Mandan Avenue and Old Red Trail, Mandan, ND 58554, Phone: 701–667–2463
CHART Services Ltd, 7912 Davenport Street, Omaha, NE 68114, Phone: 402–393–0155
Applied Occupational Health Systems, 29 River Road, Suite 18, Concord, NH 03301, Phone: 603–228–3610
Balsam Environmental Consultants, Inc., 59 Stiles Road, Salem, NH 03079, Phone: 603–893–0616
New Hampshire Division of Public Health, Public Health Laboratory, 6 Hazen Drive, Concord, NH 03301, Phone: 603–271–4657
Applied Environmental Technology, Inc., 316 Cooper Center, Pennsauken, NJ 08109, Phone: 609–486–9200
Atlantic Environmental, Inc., 2 East Blackwell Street, Suite 24, Dover, NJ 07801, Phone: 201–366–4660
Briggs Associates, Inc., 361 Hanover Street, Portsmouth, NJ 03801, Phone: 603–431–2870
Bulava Environmental, Inc., 13 Hunt Club Rd., Belle Mead, NJ 08502, Phone: 201–874–6207
Clayton Environmental Consultants, Inc., Raritan Center, 160 Fieldcrest Avenue, Edison, NJ 08837, Phone: 201–225–6040
Corning Environmental Services, One Malcolm Ave., Teterboro, NJ 07608, Phone: 201–393–5647
Electron-Microscopy Service Labs, Inc., 108 Haddon Avenue, Westmont, NJ 08108, Phone: 609–858–4800
Exxon Biomedical Sciences, Inc., Industrial Hygiene Analyt Services Lab, Mettlers Road—CN 2350, East Millstone, NJ 08875, Phone: 201–873–6033
Northeastern Analytical Corporation, 4 East Stow Road, Evesham Corp. Center, Marlton, NJ 08053, Phone: 609–654–1441
PMK, Ferris & Perricone, Inc., 516 Bloy Street, Hillside, NJ 07205, Phone: 201–686–0044
Powell Environmental Services, Inc., Suite 9A, Camp Meeting Grounds, Delanco, NJ 08075, Phone: 609–764–8866
Princeton Testing Laboratory, Inc., P.O. Box 3108, Princeton, NJ 08543, Phone: 609–452–9050
Testwell Craig Labs of New Jersey, Inc., 50 Passaic Avenue, Fairfield, NJ 07006, Phone: 201–882–8377
Testwell Craig Testing Labs, Inc., 565 East Harding Highway, Mays Landing, NJ 08330, Phone: 609–625–1700
United States Testing Company, Inc., Environmental Sciences Division, 1415 Park Avenue, Hoboken, NJ 07030, Phone: 201–792–2400
Assaigai Analytical Laboratories, Inc., 7300 Jefferson NE, Albuquerque, NM 87109, Phone: 505–345–8964
New Mexico State University, Electron Microscope Laboratory, Box 3EML, Las Cruces, NM 88003, Phone: 505–646–3734
ASTECO, Incorporated, 4287 Witmer Road, Niagara Falls, NY 14305, Phone: 716–297–5992
ATC Environmental, Inc., 104 East 25th Street, 10th Floor, New York, NY 10010, Phone: 212–353–8280
Adirondack Environmental Services, Inc., 298 Riverside Avenue, P.O. Box 265, Rensselaer, NY 12144, Phone: 518–785–0128
Ambient Labs, Inc., 119 West 23rd Street, New York, NY 10011, Phone: 212–962–4242
Applied GeoServices, Inc., 41 Union Square West, Suite 1125, New York, NY 10003, Phone: 212–633–1113
Brad Associates, 1 Rosanne Court, Lake Ronkonkoma, NY 11779, Phone: 516–467–4539
Buck Environmental Labs., Inc., 100 Tompkins St., Cortland, NY 13045, Phone: 607–753–3403
Buffalo Testing Laboratories, Inc., 902 Kenmore Avenue, Buffalo, NY 14216, Phone: 716–873–2302
Calibrations, Inc., 802 Watervliet Shaker Road, Latham, NY 12110, Phone: 518–786–1865
Certified Engineering & Testing Co., Inc. of Upstate New York, 286 Genesee St., Utica, NY 13502, Phone: 315–732–3826
Chenango Environmental Laboratory, Inc., 350 State Street, Binghamton, NY 13901, Phone: 607–723–8175
Chopra-Lee Laboratory, 1741 Baseline Road, Grand Island, NY 14072, Phone: 716–733–6748
Comprehensive Analytical Group, 147 Midler Park Drive, Syracuse, NY 13206, Phone: 315–432–0855
Eastern Analytical Services, Inc., 4 Westchester Plaza, Elmsford, NY 10523, Phone: 914–939–6992
Environmental Management Systems, Inc., 14 Sarafian Road, New Paltz, NY 12561, Phone: 914–255–1034
Friend Lab Inc., 446 Broad Street, Waverly, NY 14892, Phone: 607–565–2893
Galson Technical Services, Inc., 6601 Kirkville Road, East Syracuse, NY 13057, Phone: 315–432–0506
Hall-Kimbrell Environmental Services Inc., 129–09 Twenty-Sixth Avenue, Flushing, NY 11354, Phone: 718–445–9090

Hazardous Waste Engineering, Consultants, inc., 47 Hudson St., Ossining, NY 10562, Phone: 914–762–9000
Hygeia, Inc., 276 Fifth Avenue, Suite 503, New York, NY 10001, Phone: 212–545–7822
Independent Asbestos Labs, Inc., 5900 Butternut Drive, East Syracuse, NY 13057, Phone: 315–437–1122
Industrial Testing Laboratories, 50 Madison Avenue, New York, NY 10010, Phone: 212–685–8788
KENRON Environmental Services, Inc., 755 New York Avenue, Huntington, NY 11743, Phone: 516–427–0950
Laboratory Testing Services, 75 Urban Avenue, Westbury, NY 11590, Phone: 516–334–7770
Lozier Laboratories, Inc., 23 North Main Street, Fairport, NY 14450, Phone: 716–388–0050
Moby II, 1615 Ninth Avenue, Bohemia, NY 11716, Phone: 516–467–8477
Monroe Monitoring & Analysis, 215 Alexander Street, Rochester, NY 14607, Phone: 716–546–8580
National Testing Laboratories, Inc., 27–14 39th Avenue, Long Island City, NY 11101, Phone: 718–784–2626
New York City, Dept. of General Services Laboratory, 480 Canal Street, New York, NY 10013, Phone: 212–925–5326
OBG Laboratories, Inc., 1304 Buckley Road, Syracuse, NY 13221, Phone: 315–451–4700
Pedneault Associates, Inc., 1615 Ninth Avenue, Bohemia, NY 11716, Phone: 516–467–8477
Professional Service Industries, Inc., Pittsburg Testing Laboratory Division, 423A New Karner Road, Albany, NY 12205, Phone: 518–452–0777
R-C-G BOCES Risk Management Services Lab., P.O. Box 26, Brookview Road, Brookview, NY 12026, Phone: 518–732–7266
Suffolk County Public & Env. Health Lab., Bldg. 77, Veterans Memorial Highway, Hauppauge, NY 11788, Phone: 516–360–5528
TAKA Asbestos Analytical Services, Inc., 8 Pine Hill Court, Northport, NY 11768, Phone: 516–261–2117
TAKA Asbestos Analytical Services, Inc., Environmental Testing, 324 Larkfield Road, E. Northport, NY 11731, Phone: 516–261–2117
Testwell Craig Laboratories, Inc., 47 Hudson Street, Ossining, NY 10562, Phone: 914–736–1776
Testwell Craig Labs of Albany, Inc., 518 Clinton Avenue, , Albany, NY 12206, Phone: 518–436–4114
Testwell Craig Peters, Inc. 127 Seeley Road, Syracuse, NY 13224, Phone: 315–446–0008
Affiliated Environmental Services, Inc., 3606 Venice Road, Sandusky, OH 44870, Phone: 419–627–1976
Alloway Testing 1325 N. Cole St., Lima, OH 45801, Phone: 419–223–1362
American Analytical Laboratories Inc., 100 Lincoln Street, Akron, OH 44308, Phone: 216–535–1300
Asbestos Compliance Technology, Inc., 4015 Cherry Street, Cincinnati, OH 45223, Phone: 513–741–1331
Bruce Menkel and Associates, Inc. 235 Industrial Drive, P.O Box 159, Franklin, OH 45005, Phone: 513–746–9300
DataChem. Inc., 4388 Glendale-Milford Road, Cincinnati, OH 45242, Phone: 513–733–5336
Deyor Laboratories, Inc., Industrial Laboratory, 7655 Market Street, Suite 2500, Youngstown, OH 44512, Phone: 216–758–5788
Electro-Analytical, Inc., 7118 Industrial Park Blvd., Mentor, OH 44060, Phone: 216–951–3541
Environmental Consultants, Inc., 1810 N. 12th Street, P.O. Box 2104, Toledo, OH 43603, Phone: 419–241–7127
Environmental Enterprises Inc., 10147 Springfield Pike, Cincinnati, OH 45215, Phone: 513–772–2818
EssTek, 17960 Englewood Drive, Suite E, Middleburg Hts., OH 44130, Phone: 216–826–4420
Gelles Laboratories, Inc., 2836 Fisher Road, Columbus, OH 43204, Phone: 614–276–2957
Hayden Environmental Group, Inc., 6015 Manning Road, Miamisburg, OH 45342, Phone: 513–866–5908
Martin Marietta Energy Systems, Inc., Portsmouth Gaseous Diffusion Plant, P.O. Box 628, Piketon, OH 45661, Phone: 614–289–2331
Micro View Consulting, 416 E. Catawba Ave, Akron, OH 44301, Phone: 216–773–8330
Monarch Analytical Laboratories, P.O. Box 2990, Toledo, OH 43606, Phone: 419–535–1780
National Petrographic Services, 4484 Willowbrook Road, Columbus, OH 43220, Phone: 614–459–7360
PEI Associates, Incorporated, 11499 Chester Road, Cincinnati, OH 45246, Phone: 513–782–4700
Ricerca, Inc., 7528 Auburn Road, P.O. Box 1000, Painesville, OH 44077, Phone: 216–357–3261
SEA Inc., 7349 Worthington-Galena Road, Columbus, OH 43085, Phone: 614–888–4160
Stilson Laboratories, Inc., 170 N. High St., Columbus, OH 43215, Phone: 614–228–2900
Tremco Inc., 10701 Shaker Blvd., Cleveland, OH 44104, Phone: 216–292–5000
Tri State Laboratories, Inc., 19 East Front Street, Youngstown, OH 44503, Phone: 216–746–8800
Wadsworth/Alert Laboratory, 5405 E. Schaaf Road, P.O. Box 31454, Cleveland, OH 44131, Phone: 216–642–9151
Zimmerlin Consulting Group, 3082 Brown Park Drive, Suite D, Hilliard, OH 43026, Phone: 614–876–1153
Diversified Environmental Technologies, 132 W. Main Street, Suite 110, Norman, OK 73069, Phone: 405–360–7929
Duncan Public Schools, 1706 Spruce/P.O. Box 1548, Duncan, OK 73533, Phone: 405–255–4725
Marshall Environmental Management, Inc., 3801 N.W. 63rd Street, Suite 162, Oklahoma City, OK 73116, Phone: 405–842–3415
Occupational Safety and Health Consultants Incorporated, 208 N. Armstrong, Bixby, OK 74008, Phone: 918–366–4834
Environmental Consulting Services, Inc., 1259 Willamette Street, Eugene, OR 97401, Phone: 503–345–6790
Environmental Consulting Services, Inc., 3601 N.W. Yeon, Suite 134, Portland, OR 97210, Phone: 503–227–7210
Marine and Environmental Testing, Inc., P.O. Box 1142, Beaverton, OR 97075, Phone: 503–286–2950
Oregon Analytical Laboratory, 14655 SW Old Schools Ferry Road, Beaverton, OR 97007, Phone: 503–644–5300
Professional Service Industries, Inc., 611 S.E. Harrison Street, Portland, OR 97214, Phone: 503–232–2183
AGX, Inc., Freedom Professional Building, Suite 3B, 1341 Old Freedom Road, Mars, PA 16046, Phone: 412–776–1905
Accredited Environmental Tech., Inc., 28 North Pennell Road, Lima, PA 19037, Phone: 215–891–0114
Alcoa Environmental Health Laboratory, Alcoa Technical Center, Alcoa Center, PA 15069, Phone: 412–337–2154
Allegheny Asbestos Analysis, Inc., 300 Mt. Lebanon Blvd., Suite 2217, Pittsburgh, PA 15234, Phone: 412–563–3744
Allegheny Mountain Research, Inc., Environmental Consultants, R.D.I., Box 243A, Berlin, PA 15530, Phone: 814–267–4404
Altest Environmental Laboratories, 28 W. Main St., Plymouth, PA 18651, Phone: 717–779–5377
BCM Engineers Inc., One Plymouth Meeting, Plymouth Meeting, PA 19462, Phone: 215–825–3800
BCM Engineers Inc., 5777 Baum Boulevard, Pittsburgh, PA 15206, Phone: 412–361–6000
Cumberland Analytical Laboratories, Inc., 56 N. Second St., Chambersburg, PA 17201, Phone: 717–263–5943
Eagle Industrial Hygiene Assoc., Inc., 405 Masons Mill Road, Huntingdon Valley, PA 19006, Phone: 215–657–2261
Frec-Col Laboratories, Inc., P.O. Box 557, Cotton Road, Meadville, PA 16335, Phone: 814–724–6242
Galson Technical Services, Inc., 5170 Campus Drive, Plymouth Meeting, PA 19462, Phone: 215–834–7288
Lancaster Laboratories, Inc., 2425 New Holland Pike, Lancaster, PA 17601, Phone: 717–656–2301
Lehigh Valley Analytics, a division of Laboratory Resources, Inc., 60 West Broad Street, Bethlehem, PA 18018, Phone: 215–866–4434
MDS Laboratories, 4418 Pottsville Pike, Reading, PA 19605, Phone: 215–921–9191
Pennsylvania DER Bureau of Laboratories, 3rd & Reily St., P.O. Box 1467, Harrisburg, PA 17120, Phone: 717–787–4669
Professional Service Industries, Inc., Pittsburgh Testing Laboratory Division, 850 Poplar Street, Pittsburgh, PA 15220, Phone: 412–922–4000
RJ Lee Group, Inc., 350 Hochberg Road, Monroeville, PA 15146, Phone: 412–325–1776
SSI, Environmental Consultants, Expressway Park, Gulf Lab Road—Harmarville, Pittsburgh, PA 15238, Phone: 412–295–2399
Spotts, Stevens and McCoy, Inc., 345 North Wyomissing Blvd., P.O. Box 6307, Reading, PA 19610, Phone: 215–376–6581
Volz Environmental Services, Inc., 3010 William Pitt Way, Pittsburgh, PA 15238, Phone: 412–826–3150
Wright Lab Services, Inc., 34 Dogwood Lane, Middletown, PA 17057, Phone: 717–944–5541

Analytical Testing Services, Inc., 180 Weeden Street, Pawtucket, RI 02860, Phone: 401–723–7978
R.I. Analytical Laboratories, Inc., 1040 Mineral Spring Ave., North Providence, RI 02904, Phone: 401–725–4190
Azimuth, Inc., 9229 University Blvd., Charleston, SC 29418, Phone: 803–553–9456
Davis & Floyd, Inc., 816 East Durst Street, Greenwood, SC 29646, Phone: 803–229–5211
Environmental Engineering Company, Inc., 500 Rivermont Road, Columbia, SC 29210, Phone: 803–256–7846
Envirosciences, Inc., 187 N. Church Street, Suite 705, Spartanburg, SC 29301, Phone: 803–585–4900
Soil & Material Engineers, 840 Low Country Boulevard, Mt. Pleasant, SC 29464, Phone: 803–884–0005
ATC Environmental, Inc., 1515 East Tenth Street, Sioux Falls, SD 57103, Phone: 605–338–0555
Certified Engineering & Testing Co., Inc., 2600 Poplar Avenue, Suite 314, Memphis, TN 38112, Phone: 901–458–6860
Schneider Services International Inc., Chem Lab MS–340, Arnold AFB, TN 37389, Phone: 615–454–6573
Specialized Assays, Inc., 210 12th Avenue S. Nashville, TN 37203, Phone: 615–255–5786
ACI & Associates, 2100 Road to Six Flags, Arlington, TX 76011, Phone: 817–282–9929
ATEC Associates, Inc., 11356 Mathis Avenue, Dallas, TX 75229, Phone: 219–243–8931
Aegis Associates, 44 East Ave., Suite 100, Austin, TX 78701, Phone: 512–474–8789
Aegis Associates—El Paso, 1280 Hawkins, Suite 120, El Paso, TX 79925, Phone: 915–592–6556
Building Environmental Systems, Inc., 3501 N. MacArthur, Suite 400B, Irving, TX 75062, Phone: 214–257–0787
E.O.S. Engineers & Laboratories, Inc., 1450 Empire Central, Suite 116, Dallas, TX 75247, Phone: 214–631–0862
East Texas Testing Laboratory, Inc., 1717 E. Erwin, Tyler, TX 75702, Phone: 214–595–4421
Environmental Research Institute, Inc., P.O. Box 204, Tyler, TX 75710, Phone: 214–877–9314
Envirotests, Inc., 9504 Richmond, Suite 414, Suite 414, Houston, TX 77063, Phone: 713–782–4101
Geo-Environmental Services, Inc., Austin, TX Laboratory, 7801 N. Lamar, Suite 185E, Austin, TX 78752, Phone: 512–454–5222
Hanby Analytical Laboratories, Inc., 4400 South Wayside #107, Houston, TX 77087, Phone: 713–649–4500
Hanby Analytical Laboratories, Inc., Mobile Unit, 4400 S. Wayside, Suite 107, Houston, TX 77087, Phone: 723–649–4500
Jimmie Ann Bolton, P.O. Box 49079, Austin TX 78765, Phone: 512–282–5710
Kiser Engineering, Inc., 211 N. River St., Seguin, TX 78155, Phone: 512–372–2570
Law Engineering, Inc., 5500 Guhn Road, Houston, TX 77040, Phone: 713–939–7161
Maxim Engineers, Inc., 2342 Fabens, Dallas, TX 75229, Phone: 214–247–7575
Maxim Engineers, Inc., 11601 North Lamar, Austin, TX 78753, Phone: 512–837–8851
McClelland Management Services, Inc., 6100 Hillcroft, Suite 220, Houston, TX 77081, Phone: 995–9000
Microanalysis Laboratory D/FW–P.E.I., P.O. Box 612383 (Trailer #12), D/FW Airport, TX 75261, Phone: 214–574–1700
Microanalysis Laboratory, Inc., 8499 Greenville Avenue, Suite 201, Dallas, TX 75231, Phone: 214–340–0890
NUS Corporation, 900 Gemini Avenue, Houston, TX 77058, Phone: 713–488–1810
North American Analytical Lab, P.O. Box 6865, Abilene, TX 79605, Phone: 915–691–0172
Occupational Hygiene, Inc., P.O. Box 181796, Dallas, TX 75218, Phone: 214–324–3813
Raba-Kistner Consultants, Inc., 12821 West Golden Lane, San Antonio, TX 78249, Phone: 512–699–9090
Regional Testing Lab, Inc., 318 W. Chestnut, Suite 204, Denison, TX 75020, Phone: 214–463–6666
Southwestern Public Service Co., System Lab, P.O., Box 1261, Amarillo, TX 79170, Phone: 806–381–6360
Technology Serving People, Inc., 5373 W. Alabama, Suite 450, Houston, TX 77056, Phone: 713–621–9067
Texaco Chemical Co., PTS Laboratory, 6001 Highway 366, P.O. Box 847, Port Neches, TX 77651, Phone: 409–724–4460
Texas Department of Health Laboratory, 1100 West 49th Street, Austin, TX 78756, Phone: 512–458–7318
Texas Research Institute, 9063 W. Bee Caves Road, Austin, TX 78733, Phone: 512–263–2101
University of Texas, Health Center, Dept. of Cell Biology & Enviro. Sciences, P.O. Box 2003, Tyler, TX 75710, Phone: 214–877–7554
DataChem, Inc., 960 West LeVoy Drive, Salt Lake City, UT 84123,Phone: 801–266–7700
Dixon Information Inc., 78 West 2400 South, South Salt Lake City, UT Phone: 801–486–0800
Professional Services Industries, Inc., 2955 South West Temple, St., Salt Lake City, UT 84115, Phone: 801–484–8827
A.F. Meyre and Associates, Inc., 6849 Old Dominion Drive, Suite 228, McLean, VA 22101, Phone: 703–734–9093
ANALYTICS LABORATORY, INC., 1415 Rhoadmiller, Street, Richmond, VA 23220, Phone: 804–353–8973
ANALYTICS LABORATORY, INC., 205 South Whiting Street, Suite 405, Alexandria VA 22304, Phone: 703–751–3803
ANALYTICS LABORATORY, INC., 4625 Pembroke Lake Circle, Virginia Beach, VA 23455, Phone: 804–857–0675
American Medical Laboratories, Inc., 11091 Main Street, Fairfax, VA 22030, Phone: 703–691–9100
American Medical Laboratories, Inc., 2000 Bremo Road, #204 Richmond Medical Park, Richmond, VA 23226, Phone: 804–282–1324
Blue Ridge Analytical, 202 Bishop Road, Blacksburg, VA 24060, Phone: 703–951–9283
Marine Chemist Service, Inc., 11850 Tug Boat Lane, Newport News, VA 23606, Phone: 804–873–0933
Pacific Environmental Services, Inc., 11440 Isaac Newton Square, Suite 209, Reston, VA 22090, Phone: 703–471–8383
RJ Lee Group, Inc., Washington, DC Laboratory, 10366 Battleview Parkway, Manassas, VA 22110, Phone: 703–368–7880
Schneider Laboratories, Inc., 1427 West Main Street, Richmond, VA 23220, Phone: 804–353–6778
Scientific and Environmental, 202 Bishop Road, Blacksburg, VA 24060, Phone: 703–951–9283
Versar Inc., 6850 Versar Center, Springfield, VA 22151, Phone: 703–750–3000
Washington Analytical Lab of VA, Inc., 14214 Coda Place, Chantilly, VA 22021, Phone: 703–631–6868
Washington Analytical Lab of VA, Inc., 14210 Coda Place, Chantilly, VA 22021, Phone: 703–631–6870
Hess Oil Virgin Islands Corp. (HOVIC), P.O. Box 127, Kingshill, St. Croix, VI 00850, Phone: 809–778–4314
Shelburne Laboratories, Inc., P.O. Box 9479, 74 Ethan Allen Drive, S. Burlington, VT 05403, Phone: 802–985–3379
Amtest, Inc., 14603 NE 87th St., Redmond, WA 98052, Phone: 206–885–1664
EssTek, 12822 Gateway Drive, Seattle, WA 98168, Phone: 303–425–0013
Hanford Environmental Health Foundation, NHS, Inc., 805 Goethals Drive, Richland, WA 99352, Phone: 509–376–6980
Hanford Environmental Health Foundation, NHS, Inc., 2950C George Washington Way, Richland, WA 99352, Phone: 509–376–6980
M & M Environmental, Inc., 3902 North 34th Street, Tacoma, WA 98407, Phone: 206–572–2772
Microlab Northwest, 7609 140th Pl. N.E., Redmond, WA 98052, Phone: 206–885–9419
Puget Sound Naval Shipyard, Code 1343, Bremerton, WA 98314, Phone: 206–476–8092
C. G. Technologies, Inc., University Research Park, 505 Science Drive, Suite D, Madison, WI 53711, Phone: 608–271–2292
Chem-Bio Corporation, 140 East Ryan Road, Oak Creek, WI 53154, Phone: 414–764–7870
Northland Environmental Services, Inc., 15 Park Ridge Drive, P.O. Box 909, Stevens Point, WI 54481 Phone: 715–341–9699
Wausau Insurance Companies, Environmental Health Laboratory, 2000 Westwood Drive, Wausau, WI 54401, Phone: 715–842–6810
West Allis Memorial Hospital, Industrial Toxicology Laboratory, 8901 West Lincoln Avenue, West Allis, WI 53227, Phone: 414–546–6313
Wisconsin Occupational Health Laboratory, 979 Jonathan Drive, Madison, WI 53713, Phone: 608–263–6550
Air-Quality Analysis, Inc., 1337 Perry Ave., Morgantown, WV 26505, Phone: 304–599–0023
Asbestos Laboratory Division—P.H.I., 132 Oakwood Road, Charleston, WV 25314, Phone: 304–342–6424
Chatfield Technical Consulting Limited, 2071 Dickson Road, Mississauga, Ontario, L5B 1Y8, CANADA, Phone: 416–896–7611
McMaster University, Occup. Health Lab., 1200 Main Street West, Hamilton, Ontario L8N 3Z5, CANADA, Phone: 416–525–9140
Pinchin Harris Holland Associates Ltd., #200–1285 West Pender Street, Vancouver, B.C., V6E, 4B1, CANADA, Phone: 604–669–5979

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National Oceanic and Atmospheric Administration

Membership of the National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atomospheric Administration (NOAA), Commerce.

ACTION: Notice of membership of NOAA performance review boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 USC, 4314(c)(4), NOAA announces the appointment of persons to serve as members of NOAA Performance Review Boards (PRB). The NOAA PRB's are responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and amounts, and initial recommendations for potential rank awards. The appointment of these members to the NOAA PRB's will be for periods of 24 months service beginning August 31, 1989.

DATE: The effective date of service of appointees to the NOAA Peformance Review Board is August 31, 1989.

FOR FURTHER INFORMATION CONTACT: John Innocenti, Chief, Personnel Division, Office of Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443–8811.

SUPPLEMENTARY INFORMATION: The names and titles of the members of the NOAA PRB's (NOAA officials unless otherwise identified) are set forth below:

Dennis F. Geer, Director, Office of Administration
Curtis T. Hill, Director, Mountain Administrative Support Center
Kelly C. Sandy, Director, Western Administrative Support Center
Robert S. Smith, Director, Eastern Administrative Support Center
Donald E. Humphries, Director, National Capital Administrative Support Center
Thomas A. Campbell, General Counsel
Lorretta F. Gribbin, Director, Office of Legislative Affairs
J. Roy Spradley, Jr., Special Advisor, Office of Assistant Secretary for Oceans and Atmosphere
Jay S. Johnson, Deputy General Counsel for Fisheries, Enforcement and Regions
William H. Hooke, Executive Director, Office of the Chief Scientist
Henry R. Beasley, Director, Office of Protected Resources, NMFS
Nancy Foster, Director, Office of Protected Resources, NMFS
Ellsworth C. Fullerton, Director, Southwest Region, NMFS
Morris M. Pallozzi, Director, Office of Enforcement, NMFS
Richard B. Roe, Director, Northeast Region, NMFS
Rolland A. Schmitten, Director, Northwest Region, NMFS
John J. Carey, Deputy Assistant Administrator for Ocean Services and Coastal Zone Management
Bruce C. Douglas, Chief, Geodetic Research and Development Laboratory, National Ocean Service (NOS)
Charles N. Ehler, Director, Office of Oceanography and Marine Assessment, NOS
Frank W. Maloney, Chief, Aeronautical Charting Division, NOS
Andrew Robertson, Chief, Ocean Assessments Division, NOS
Kenneth D. Hadeen, Director, National Climatic Data Center, National Environmental Satellite, Data, and Information Service (NESDIS)
E. Larry Heacock, Director, Office of Satellite Operations, NESDIS
Russel Koffler, Deputy Assistant Administrator, Satellite and Information Services, NESDIS
Gregory W. Withee, Director, National Oceanographic Data Center, NESDIS
Richard P. Augulis, Director, Central Region, National Weather Service (NWS)
William D. Bonner, Director, National Meteorological Center, NWS
Michael D. Hudlow, Director, Office of Hydrology, NWS
Ronald D. McPherson, Deputy Assistant Administrator for Weather Services
Ronald J. Lavoie, Chief, Program Requirements and Planning Division, NWS
Douglas H. Sergeant, Director, Office of Systems Development, NWS
Walter Telesetsky, Director, Office of Systems Operations, NWS
Hugo F. Bezdek, Director, Atlantic Oceanographic and Meteorological Laboratories, Office of Oceanic and Atmospheric Research (OAR)
Kirk Bryan, Supervisory Research Meteorologist, Geophysical Fluid Dynamics Laboratories, OAR
J. Michael Hall, Director, Office of Climatic and Atmospheric Research, OAR
Robert J. Mahler, Deputy Director, Environmental Research Laboratories, OAR
Jerry D. Mahlman, Director, Geophysical Fluid Dynamics Laboratories, OAR
Syukuro Manabe, Supervisory Research Meteorologist, Geophysical Fluid Dynamics Laboratories, OAR
Ned A. Ostenso, Director, Office of Oceanic Research Programs, OAR
Joseph E. Clark, Deputy Director, National Technical Information Service, Department of Commerce (DOC)
David Farber, Deputy Director, Office of Procurement and Administrative Services, DOC
Frederick T. Knickerbocker, Executive Director, Economic Affairs, DOC
Roy R. Mullen, Associate Chief, National Mapping Division, United States Geological Survey, Department of Interior
Joe D. Simmons, Deputy Director, Center for Basic Standards, National Institutes of Science and Technology, DOC.

Date: July 14, 1989.

B. Kent Burton,

Assistant Secretary for Oceans and Atmosphere.

[FR Doc. 89–17540 Filed 7–26–89; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before August 28, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested,

e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: July 21, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Extension.
Title: Application for Grants Under the Law-Related Education Program.
Frequency: Annually.
Affected Public: State or local governments; Non-profit institutions.
Reporting Burden:
Responses: 90.
Burden Hours: 3,600.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by state or local governments and non-profit institutions to apply for funding under the Law-Related Education Program. The Department uses the information to make grant awards.

Type of Review: New.
Title: Drug-Free Schools and Communities Program—Federal Activities Grants.
Frequency: Annually.
Affected Public: State or local governments; Non-profit institutions.
Reporting Burden:
Responses: 600.
Burden Hours: 11,400.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0
Abstract: This form will be used by state or local governments and non-profit institutions to apply for grants under the Drug-Free Schools and Communities Act. The Department uses the information to make grant awards.

Type of Review: Extension.
Title: Drug-Free Schools and Communities Program—Training and Demonstration Grants Institutions of Higher Education.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden:
Responses: 600.
Burden Hours: 11,400.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by non-profit institutions to apply for funding under the Drug-Free Schools and Communities Program. The Department uses the information to make grant awards.

[FR Doc. 89-17514 Filed 7-26-89; 8:45 am]

BILLING CODE 4000-1-M

Office of Postsecondary Education

Perkins Loan (Formerly The National Direct Student Loan), College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of closing date for filing the fiscal operations report and application to participate in the Perkins Loan, College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for fiscal year 1990 funds—for use in the 1990–91 award year—under the Perkins Loan, CWS and SEOG programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the costs of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. Institutions will be notified of the closing date for establishing institutional eligibility to participate in the Perkins Loan, CWS, and SEOG programs through a separate notice in the **Federal Register.**

The Secretary further gives notice that an institution that had a Perkins Loan fund or expended CWS of SEOG funds during the 1988–89 award year is required to report its program expenditures as of June 30, 1989, to the Secretary.

The Perkins Loan, CWS, and SEOG programs are authorized by Parts E, C, and Part A Subpart 2, respectively, of title IV of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1087aa–1087ii, 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3.)

Closing Date: An institution may submit its 1988–89 Fiscal Operations Report and the 1990–91 Application to Participate in the Perkins Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs (FISAP–ED) FORM 646–1; OMB No. 1840–0073) by—

(1) Submitting the completed data cells on the paper form (ED Form 646–1);

(2) Submitting the completed data cells on a data diskette provided by the Department;

(3) Creating a tape from data stored in a pre-defined format on a mainframe computer, and submiting that tape; or

(4) Transmitting the data from a personal or mainframe computer through a modem.

To ensure consideration for 1990–91 funds:

(1) An institution that has been given permission by the Department to submit a paper FISAP must submit it by September 8, 1989.

(2) An institution that is submitting an electronic FISAP either by a data diskette or tape, or by modem, must submit it by September 29, 1989.

FISAPs Delivered by Mail: A paper FISAP (ED Form 646–1) sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations and Systems, Campus-Based Programs Branch, 400 Maryland Avenue, SW. (Room 4621, Regional Office Building 3), Washington, DC 20202–5452.

A diskette or tape containing FISAP data must be addressed to Electronic FISAP, c/o Data Transformation Corporation, 8121 Georgia Avenue—Suite 300, Silver Spring, Maryland 20910.

An institution must show proof of mailing its FISAP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a FISAP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provided a dated postmark. Before relying on this method, an institution should check with its local post office. An institution in encouraged to use certified or a least first-class mail.

FISAPs Delivered by Hand: A FISAP that is hand delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations and Systems, Campus-Based Programs Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, DC.

A diskette or tape containing FISAP data must be taken to Data Transformation Corporation, 8121 Georgia Avenue—Suite 300, Silver Spring, Maryland.

Hand-delivered FISAPs, diskettes, or tapes will be accepted between 8:00 a.m. and 4:30 p.m. daily [Eastern Daylight Time], except Saturdays, Sundays and Federal holidays. A FISAP that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

FISAPs Delivery Electronically: A FISAP that is delivered electronically must be transmitted by either a personal or mainframe computer to the host ED computer using a modem. In addition, one original completed signature page and one copy of the completed signature page from ED Form 646–1 must be submitted under separate cover to Electronic FISAP, c/o Data Transformation Corporation, 8121 Georgia Avenue—Suite 300, Silver Spring, Maryland 20910, by September 29, 1989.

FISAP Information: FISAPs were mailed by the Campus-Based Program Branch in late July. An institution must prepare and submit its FISAP in accordance with the instructions included in the package.

The program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations: The following regulations are applicable to these programs:

Perkins Loan—34 CFR Parts 674 and 668.
College Work-Study—34 CFR Parts 675 and 668.
Supplemental Educational Opportunity Grant—34 CFR Parts 676 and 668.

Further Information: For further information or to request a FISAP, contact Ms. Gloria Easter, Chief, Financial Management Section, Division of Program Operations and Systems, Office of Student Finanical Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 4621, ROB–3), Washington, DC 20202–5452. Telephone (202) 732–3758.

(20 U.S.C. 1087aa et. seq.; 42 U.S.C. 2751 et seq.; and 20 U.S.C. 1070b et seq.)

Dated: July 21, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Edcuation.

(Catalog of Federal Domestic Assistance Nos. 84.038, Perkins Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

[FR Doc. 89–17515 Filed 7–26–89; 8:45 am]

BILLING CODE 4000–01–M

Stafford Loan Program, SLS Program, Plus Program, and Consolidation Loan Program

AGENCY: Department of Education.

ACTION: Notice of Special Allowance for Quarter Ending June 30, 1989.

The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Stafford Loan Program (formerly the Guaranteed Student Loan Program), the Supplemental Loan for Students (SLS) Program, the PLUS Program or the Consolidaton Loan Program. This special allowance is provided for under section 438 of the Higher Education Act (the Act), as amended (20 U.S.C. 1087–1).

Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending March 31, 1989, the special allowance will be paid at the following rates:

Applicable interest rate percent	Annual special allowance rate percent	Special allowance rate percent for quarter ending June 30, 1989
I. Stafford, PLUS or Consolidation loans made prior to October 1, 1981:		
7	5.25	1.3125
9	3.25	0.8125
II. Stafford, SLS or PLUS loans made on or after October 1, 1981, but prior to November 16, 1986, for periods of enrollment beginning prior to November 16, 1986; Consolidation loans made on or after October 1, 1981, but prior to November 16, 1986:		
7	5.23	1.3075
8	4.23	1.0575
9	3.23	0.8075
12	0.23	0.0575
14	0.00	0.00
III. Stafford loans made on or after November 16, 1986, or made for periods of enrollment beginning on or after November 16, 1986; SLS or PLUS loans made at a fixed rate of interest either on or after November 16, 1986, or for periods of enrollment beginning on or after November 16, 1986; Consolidation loans made on or after November 16, 1986:		
7	4.98	1.245
8	3.98	0.995
9	2.98	0.745
10	1.98	0.495
11	0.98	0.245
12	0.00	0.000
13	0.00	0.000
14	0.00	0.000

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate, by making the following four calculations:

(a) *Step 1.*

Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies (8.73 percent for the quarter ending June 30, 1989);

(b) *Step 2.*

Subtract from that average the applicable interest rate of loans for which a holder is requesting payment;

(c) *Step 3.*

(1) Add 3.5 percent to the remainder, and, in the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent; or

(2) Add 3.25 percent in the case of (i) Stafford loans made on or after November 16, 1986, or made for periods of enrollment beginning on or after November 16, 1986; (ii) SLS or PLUS loans made at a fixed rate of interest either on or after November 16, 1986, or for periods of enrollment beginning on or after November 16, 1986, or (iii) Consolidation loans made on or after November 16, 1986; and

(d) *Step 4.*

Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Program Analyst, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 732–4242.

Dated: July 21, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

[FR Doc. 89–17516 Filed 7–26–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL87–22–004, et al.]

Vermont Yankee Nuclear Power Corporation et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Vermont Yankee Nuclear Power Corporation

[Docket No. EL87-22-004]

July 17, 1989.

Take notice that on July 10, 1989, Vermont Yankee Nuclear Power Corporation (Vermont Yankee) submitted for filing, an amendment to the Power Contracts under which it sells electricity for resale to nine New England utilities, to eliminate the equity reopener provision, in compliance with the Commission's Opinion No. 285-B in this docket.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Snake River Power Association

[Docket No. EL87-39-000]

July 17, 1989.

Take notice that on June 27, 1989, Snake River Power Association, Inc. (SRPA) filed with the Commission a Lease Agreement with Bonneville Power Administration (BPA) for the lease of the Fall River Transmission Line. Under the terms of the Lease, BPA will be responsible for the use, operation, maintenance, repair and replacement of the Line. SRPA requests a declaratory order disclaiming Commission jurisdiction over SRPA. Alternatively, if the Commission determines that SRPA is subject to its jurisdiction, SRPA requests that the Commission approve the lease agreement. Additionally, in the event the Commission finds that SRPA is subject to its jurisdiction, SRPA requests waiver of certain Commission regulations.

Comment date: August 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Mexico

[Docket No. ER89-533-000]

July 17, 1989.

Take notice that on July 3, 1989, Public Service Company of New Mexico (PNM) submitted for filing an Economy Energy Agreement between PNM and the City of Glendale, California (Glendale). Under the Agreement PNM and Glendale, will make economy energy available to each other at rates reflecting current market conditions.

Copies of the filing have been served upon Glendale and the New Mexico Public Service Commission.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this document.

4. Gulf States Utilities Company

[Docket No. ER89-536-000]

July 17, 1989.

Take notice that on July 6, 1989, Gulf States Utilities Company tendered for filing an Interchange Agreement Between Gulf States Utilities Company and the Board of Public Utilities of Springfield, Missouri, and associated Service Schedules ES-Emergency Service, RE—Replacement Energy, and ECON—Economic Energy Supply.

The purpose of the Interchange Agreement and associated service schedules is to allow Gulf States and the Board of Public Utilities of Springfield, Missouri to engage in emergency service, replacement energy, and economic energy transactions.

Gulf States requests an effective date for the Interchange Agreement and the service schedules of June 12, 1989, the date as of which they were executed.

A copy of the filing was served on the Board of Public Utilities of Springfield, Missouri.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this document.

5. The Montana Power Company

[Docket No. ER89-530-000]

July 17, 1989.

Take notice that on June 30, 1989, The Montana Power Company ("Montana") tendered for filing with the Commission pursuant to 18 CFR 35.12 (1989) a "Power Sales Agreement Between The Montana Power Company and Department of Water and Power of the City of Los Angeles". Montana requests that the Commission (a) accept the agreement for filing, to be effective on or about July 17, 1989; and (b) grant a waiver of notice pursuant to 18 CFR 35.11 (1989), so as to allow the filing of the Agreement less than 60 days prior to the date on which service under the Agreement is commenced.

Copies of the filing were served upon the Department of Water and Power of the City of Los Angeles, and the Public Service Commission of the State of California.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Kanawha Valley Power Company

[Docket No. ER89-529-000]

July 17, 1989.

Take notice that on June 30, 1989, Kanawha Valley Power Company (Kanawha) tendered for filing modifications to its 1935 and 1937 Agreements (Schedule FPC Nos. 1 and 2, respectively) with Appalachian Power Company (Appalachian) providing for the supply of power and energy from Kanawha's Marmet and London (Project No. 1175) and Winfield (Project No. 1290) hydro-electric plants, respectively, to be effective August 31, 1989.

The modifications would increase annual revenues to Kanawha for sales to Appalachian by $948,798 based on the twelve month period ended April 30, 1989.

The proposed changes are required due to increases in the cost of providing service under the 1935 and 1937 Agreements since the last rate modification in September 1988. The rates under the proposed modification are designed to provide Kanawha with the opportunity to earn a 10.48% overall return. Both Kanawha and Appalachian are affiliates of the American Electric Power System.

Kanawha states that a copy of the filing has been provided to the Public Service Commission of West Virginia, the Virginia State Corporation Commission and Appalachian Power Company.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Company

[Docket No. ER89-528-000]

July 17, 1989.

Take notice that on June 30, 1989, Idaho Power Company tendered for filing proposed changes in its 1st Revised FERC Electric Tariff, Volume No. 1. The proposed rate schedule could be used for both firm and non-firm transactions of short duration and would supersede Idaho Power's existing non-firm tariff, 1st Revised Volume No. 1, October 1, 1978. Because the Schedule covers short-term capacity and/or energy for resale, and the amount of such capacity and/or energy which can be made available for sale is unknown, it is impossible to determine whether the proposed changes would result in any increase in the Company's revenues.

The proposed change in rates is to provide Idaho Power Company with reasonable compensation for current costs of generation.

Copies of the filing were mailed to those utilities believed by Idaho Power Company to be interested in purchasing this type of service, as well as the utility regulatory commissions for Idaho, Oregon, Nevada, California, Montana, Utah, New Mexico, Washington and Colorado.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Minnesota Power & Light Company

[Docket No. ER89-527-000]

July 17, 1989.

Take notice that on June 30, 1989, Minnesota Power & Light Company tendered for filing a Participation Power Transaction Agreement between Minnesota Power & Light Company and Iowa Electric Light and Power Company. Under this Agreement, Minnesota Power & Light Company will sell 30 MW of participation power as available from its Laskin Unit No. 2 on a participation power interchange basis in accordance with the Mid-Continent Area Power Pool Agreement, Service Schedule A. This Agreement provides for energy sales only during the period from May 1, 1989 through October 31, 1989 inclusive. The parties request a waiver of the Commission's 60 day filing period for this Agreement and an effective date of May 1, 1989.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER89-534-000]

July 17, 1989.

Take notice tha on July 3, 1989, Public Service Company of New Mexico (PNM) submitted for filing an Economy Energy Agreement between PNM and the City of Pasadena, California (Pasadena). Under the Agreement PNM and Pasadena will make economy energy available to each other at rates reflecting current market conditions.

Copies of the filing have been served upon Pasadena and the New Mexico Public Service Commission.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Power & Light Company

[Docket No. ER89-539-000]

July 17, 1989.

Take notice that on July 6, 1989, Wisconsin Power & Light Company (WPL) tendered for filing a new wholesale power agreement dated June 20, 1989, between the City of Sheboygan Falls and WPL. WPL states that this new wholesale power agreement supercedes the previous agreement between the two parties which was dated September 17, 1984, and designated Rate Schedule No. 131 by the Commission.

The purpose of this new agreement is to provide for terms of service on a similar basis to the terms of service for other wholesale customers.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to the City of Sheboygan Falls and the Wisconsin Public Service Commisison.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER89-543-000]

July 17, 1989.

Take notice that on July 10, 1989, Northeast Utilities Service Company (NUSCO) tendered for filing as rate schedules two transmission service agreements between (A) Northeast Utilities Service Company (NUSCO), as Agent for The Connecticut Light and Power Company and Western Massachusetts Electric Company, and (B) South Hadley Electric Light Department, Hudson Light and Power Department, Westfield Gas and Electric Department, and Holyoke Gas and Electric Department, each dated November 1, 1988.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedules to become effective November 1, 1988, and to permit the agreements to terminate April 30, 1989, and December 31, 1988, respectively.

NUSCO states that copies of these rate schedules have been mailed or delivered to each of the parties.

NUSCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Utah Power & Light Company

[Docket No. ER89-541-000]

July 17, 1989.

Take notice that on July 10, 1989, Utah Power & Light Company, a Division of PacifiCorp (Utah) tendered for filing Mona Interconnection Agreement (Agreement) between Deseret Generation & Transmission Cooperative, Utah, and Intermountain Power Agency.

Utah requests that the notice requirements of 18 CFR 35.3 be waived as provided in 18 CFR 35.11, and that the Agreement be made effective retroactively as of November 13, 1984, the date service was commenced. Further, Utah requests that the filing requirements of 18 CFR 35.13(a)(ii)(c)(1) and (2) be waived.

Copies of this filing were served on Deseret Generation & Transmission Cooperative, Intermountain Power Agency, and the Utah Public Service Commission.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. CEI-AMP-Ohio Interconnection Agreement

[Docket No. ER89-537-000]

July 17, 1989.

Take notice that on July 5, 1989, the Cleveland Electric Illuminating Company filed, on behalf of the above listed parties to the CEI-AMP-Ohio Agreement an initial rate schedule between the Cleveland Electric Illuminating Company and American Municipal Power-Ohio, Inc.

This Agreement provides for Limited Term Power supplied by CEI. The parties have requested an effective date of September 1, 1988 for this schedule.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Pool

[Docket No. ER89-542-000]

July 17, 1989.

Take notice that on July 10, 1989, the New England Power Pool (NEPOOL) Executive Committee tendered for filing a notice of termination of the status of the Second Taxing District of the City of Norwalk, Connecticut, and the Third Taxing District of the City of Norwalk, Connecticut, as participants in the New England Power Pool.

NEPOOL states that the two taxing districts of Norwalk, Connecticut, are signatories to the NEPOOL Agreement, which is on file with the Commission as a rate schedule (designated NEPOOL F.P.C. No. 1). These two electric utilities have requested that their status as pool participants be terminated in view of their arrangements to receive service through another pool participant. NEPOOL further indicates that the termination of these two utilities as participants in the pool does not change the NEPOOL Agreement in any manner other than to terminate them as members of the pool.

NEPOOL requests an effective date of November 1, 1989 for termination of the status of the two Norwalk taxing districts as participants in the pool.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

15. Pacific Gas and Electric Company

[Docket No. ER89-512-000]

July 14, 1989.

Take notice that on June 6, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment to the Transmission Rate Schedule filed on November 1, 1988, in Docket No. ER89-49-000.

Copies of this filing have been served upon Sacramento Municipal Utility District, the California Public Utilities Commission and the service list in Docket No. ER89-49-000.

Comment date: July 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

16. Oroville Energy, Inc.

[Docket No. QF89-110-001]

July 18, 1989.

On July 6, 1989, Oroville Energy, Inc. (Applicant), of Bellevue, Washington, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Oroville, California. The facility will consist of eight internal combustion engine generators and associate heat recovery equipment. Thermal energy recovered from the engine jacket cooling water, will be used to evaporate and concentrate brine resulting from oil and gas well drilling, and produce salt as a byproduct for sale. The net electric power production of the facility will be 7.5 MW. Installation of the facility is expected to begin in the third quarter of 1989.

The original application was filed by Oroville Energy, Inc, on December 30, 1988 and was granted on March 15, 1989 (46 FERC ¶62,275). The instant recertification is requested primarily due to a change in ownership of the facility. The facility will be owned by a partnership consisting of Oroville Energy, Inc. and National Energy Systems Company as general partners and American Energy Corporation (AEC) and Haskell Corporation as limited partners. AEC is a wholly-owned subsidiary of Potomac Capital Investment Corporation, which is a wholly-owned subsidiary of Potomac Electric Power Company, an electric utility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

17. North Jersey Energy Associates, A New Jersey Limited Partnership

[Docket No. QF86-789-003]

July 18, 1989.

On June 28, 1989, North Jersey Energy Associates, a New Jersey Limited Partnership (Applicant), of 350 Lincoln Place, Mingham, Massachusetts, 02043, submitted for filing an application for recertification of a facility as a qualifying cogeneraton facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Sayerville, New Jersey. The facility will consist of two combustion turbine generators, two heat recovery boilers and one extraction/condensing steam turbine generator. The primary energy source of the facility will be natural gas. Installation of the facility was expected to begin on July 1, 1989.

The first recertification for increase in electric power production capacity and change of the primary energy source was filed on July 1, 1987 and was granted on September 25, 1987 (40 FERC ¶62,385). The second recertification for further increase in electric power production capacity, change in the type of generating equipment and change in the thermal use was filed on August 16, 1988 and was granted on January 10, 1989 (46 FERC ¶62,023). The instant recertification is requested due to decrease in the net electric power production capacity and change in the thermal energy use. The proposed net electric power production capacity will be 272 MW. Thermal energy from the facility will now be utilized by Hercules, Incorporated in the manufacturing of industrial chemicals.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

18. Vermont Electric Power Company, Northeast Utilities Service Company, New England Power Company

[Docket No. ER89-522-000]

July 18, 1989.

Take notice that on June 27, 1989 Vermont Electric Power Company (VELCO), New England Power Company (NEP), and Northeast Utilities Service Company as agent for The Connecticut Light and Power Company and Western Massachusetts Electric Company (collectively, NU) tendered three agreements for filing. They are (1) a Transmission Allocation Agreement among VELCO, NEP, and NU, (2) a Reallocation Agreement between VELCO and NU, and (3) a Transmission Agreement between NU and NEP.

VELCO, NEP and NU are the owners of tie lines connecting New England with New York. Under the Transmission Allocation Agreement, each tie owner has transfer rights, and can exercise those rights regardless of whether their particular lines are operational. The parties have agreed that the transfer capability to be allocated will be based on that established by NEPOOL and NYPP. They have agreed that the transfer capability on the New England side of the New England/New York interface will be allocated based upon the following percentages: NU (72%), VELCO (14%), and NEP (14%).

The Reallocation Agreement is a transfer of allocation rights under the Allocation Agreement from NU to VELCO at VELCO's option. By exercising its option, VELCO may increase the transfer rights over its own lines up to the difference between 200 magawatts and the amount of the Class 1 transactions to which it is entitled under the Transmission Allocation Agreement. If VELCO exercises its option to increase its transfer rights by a certain amount NU's transfer rights are decreased by the same amount.

The Transmission Agreement between NEP and NU allows NEP to transfer power over NU's lines. NU has agreed to transmit for NEP purchases from the west in an amount up to the difference between 225 megawatts and NEP's share of the transfer capability under the Allocation Agreement, whatever that amount may be from time to time.

The three agreements were negotiated as a single package and are tendered as such in the filing.

The parties to the three agreements request that the 60 day notice requirement be waived to permit the agreements to become effective November 1, 1988.

The three companies request that, if a hearing is ordered, any resulting change in the allocation be required only prospectively and only as to transactions entered into after the date of the Commission's order requiring the change.

Copies of the three agreements have been served on the Massachusetts Department of Public Utilities and the Vermont Public Service Board.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

19. Arkansas Power & Light Company

[Docket No. ER89-523-000]

July 18, 1989.

Take notice that on June 27, 1989, Arkansas Power & Light Company (AP&L) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 100.

AP&L states that this schedule is an agreement between AP&L and the City of Hope, Arkansas (Hope) which provided for AP&L to furnish transmission services through its system to the system of Hope permitting a sale of power and energy by Southwestern Electric Power Company to Hope.

AP&L requests an effective date of September 2, 1989.

Comment date: August 3, 1989, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power & Light Company

[Docket No. ER89-532-000]

July 18, 1989.

Take notice that on July 3, 1989, Florida Power & Light Company (FPL), tendered for filing the following interrelated documents. Contract for Interchange Service between Florida Power & Light Company and Seminole Electric Cooperative, Inc., (SEC) Supplementary Agreement Number One to Contract for Interchange Service between Florida Power and Light Company and Seminole Electric Cooperative, Inc. dated June 30, 1989, and Cost Support Schedules C, F, G, C-S, F-S, and G-S (together with Cost Support Schedules F Supplements and F-S Supplements) which support the rate under the Contract. This Contract for Interchange Service and Supplementary Agreement Number One between FPL and SEC supersede and replace in their entirety the Contract and Supplementary Agreement dated June 18, 1984 and accepted for filing by the Commission as Rate Schedule FERC No. 80 is Docket No. ER84-520-000.

The rates for sales by FPL to Seminole under the Contract and Supplementary Agreement Number One are the same as those contained in FPL's Cost Support Schedules filed in Florida Power & Light Company Docket No. ER89-383-000 which were made effective May 1, 1989. FPL respectfully requests that the data contained in those Cost Support Schedules be incorporated in this filing by reference. FPL respectfully requests an effective date of July 1, 1989 for this new rate schedule. According to FPL, a copy of this filing was served upon Seminole Electric Cooperative, Inc., and the Florida Public Service Commission.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

21. PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light

[Docket No. ER89-535-000]

July 18, 1989.

Take notice that on July 3, 1989, PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light (Company), tendered for filing, in accordance with 18 CFR Part 35 of the Commission's Regulations, Revision No. 2 to exhibit B of Contract No. DE-MS79-83BP90909 (Two-Way O&M Agreement) between the Company and the Bonneville Power Administration (Bonneville), the Company's Rate Schedule FERC No. 239. Exhibit B specifies equipment owned by Bonneville that is operated and maintained by the Company at Bonneville's expense (O&M Services) and sets forth the annual charges for such O&M Services.

The Company requests waiver of the Commission's Notice requirements to permit Revision No. 2 to Exhibit B to become effective July 1, 1988, this date being the date on which service commenced.

Copies of this filing were supplied to the Public Utility Commission of Oregon and Bonneville.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

22. Pacific Gas and Electric Company

[Docket No. ER89-538-000]

July 18, 1989.

Take notice that on July 6, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing changes in rates under Rate Schedule FERC No. 53 for services provided by PG&E to the City and County of San Francisco (CCSF).

The proposed changes result in a rate and revenue reduction. The rates are proposed to be effective for the period January 1, 1988 through March 31, 1988.

Copies of this filing were served upon CCSF, the California Public Utilities Commission, Turlock Irrigation District, Modesto Irrigation District and NI Industries.

Comment date: August 2, 1989, in accordance with Standard Paragaph E at the end of this notice.

23. The Curators of the University of Missouri-Columbia

[Docket No. QF89-281-000]

July 19, 1989.

On June 30, 1989, the Curators of the University of Missouri-Columbia (Applicant), of 415 South Fifth Street, Columbia, Missouri 65211, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located on the campus of the University of Missouri in Columbia, Missouri. The facility consists of coal fired boiler(s) and extraction/condensing steam turbine generator sets. The thermal output of the facility, in the form of extraction steam, will be used to meet campus heating and cooling requirements. The maximum net electric power production capacity of the facility will be 46.8 MW.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

24. Northern States Power Company, Wisconsin Electric Power Company, Wisconsin Power & Light Company, Wisconsin Public Service Corporation v. Public Service Commission of Wisconsin

[Docket No. EL89-40-000]

July 20, 1989.

Take notice that on July 13, 1989, the above petitioners tendered for filing a petition for declaratory order seeking a determination that the Public Service Commission of Wisconsin ("the PSCW") by its order in its fifth so-called advance plan proceeding collaterally exercised jurisdiction delegated exclusively to the Federal Energy Regulatory Commission under the Federal Power Act. The petitioners seek a determination on the following three questions:

1. Is the PSCW's order that utilities in Wisconsin develop transmission rate schedules in a particular form—joint-use transmission agreements—a collateral exercise of FERC's exclusive jurisdiction over transmission rate schedules under the Federal Power Act?

2. Is the PSCW's order that the rates and terms and conditions of the rate schedules conform to 20 principles or guidelines (to the extent that such principles or guidelines relate to rates and terms and conditions of service) a collateral exercise of FERC's exclusive jurisdiction over transmission rate schedules under the Federal Power Act?

3. Is the PSCW's order that the rate schedules be submitted to the PSCW for review to determine their conformity to the 20 principles or guidelines (to the extent that such principles or guidelines relate to rates and terms and conditions of service) a collateral exercise of

FERC's exclusive jurisdiction under the Federal Power Act?

Comment date: August 10, 1989, in accordance with Standard Paragraph E at the end of this notice.

25. Gulf States Utilities Company

[Docket No. ER89-551-000]

July 18, 1989.

Take notice that on July 5, 1989, Gulf States Utilities Company (GSU) tendered for filing an agreement for special requirements wholesale electric service between GSU and Sam Rayburn G&T Electric Cooperative, Inc. and a power interconnection agreement between GSU and Sam Rayburn G&T Electric Cooperative, Inc. GSU states that it is filing these materials, and certain other documents, as part of a settlement between itself and Sam Rayburn G&T Electric Cooperative in Docket No. EL88-40-000.

Comment date: July 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

26. Gulf States Utilities Company

[Docket No. ER86-558-022]

July 20, 1989.

Take notice that on July 13, 1989, Gulf States Utilities Company (Gulf States) filed an amendment to its June 6, 1989 compliance refund report.

In its revised refund report Gulf States states that the revised refund reflects additional interest starting with the third quarter of 1988. Gulf States further states that the additional refund was made to Cajun Electric Power Cooperative, Inc.

Comment date: August 2, 1989, in accordance with Standard Paragraph E at the end of this notice.

27. Nevada Power Company

[Docket No. ER89-546-000]

July 20, 1989.

Take notice that on July 11, 1989, Nevada Power Company (Nevada) tendered for filing a revised agreement entitled Agreement For Transmission Service Among Nevada Power Company and Overton Power District No. 5 (Overton) and Lincoln County Power District No. 1 (Lincoln) hereinafter "the Agreement." The primary purpose of the Agreement is to establish the terms and conditions for the transmission of federal power by Nevada to Overton and Lincoln.

Nevada requests that this Agreement become effective as of March 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Nevada states that copies of the filing were served upon Overton and Lincoln.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

28. Public Service Company of Oklahoma

[Docket No. ER89-547-000]

July 20, 1989.

Take notice that on July 11, 1989, Public Service Company of Oklahoma ("PSO") tendered for filing a reduced Delivery Point Transmission Service rate ("DPTS") between Oklahoma Municipal Power Authority ("OMPA") and PSO. PSO proposes that the revised OPTS rate be made effective as of July 1, 1989, and accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing have been sent to the Oklahoma Corporation Commission and to OMPA.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

29. United States Department of Energy—Southwestern Power Administration

[Docket No. EF89-4081-000]

July 20, 1989.

Take notice that on June 30, 1989, the Deputy Secretary of the United States Department of Energy submitted for final approval for the period beginning with the date of commercial operation of the Town Bluff Dam (expected to be July 1, 1989) through September 30, 1993 rates for sales from the project to Sam Rayburn Municipal Power Agency under Contract No. DE-PM75-85S00117.

Comment date: July 31, 1989, in accordance with Standard Paragraph E at the end of this document.

30. The Kansas Power and Light Company

[Docket No. ER89-379-000]

July 20, 1989.

Take notice that on July 7, 1989, The Kansas Power and Light Company (KPL) tendered for filing an amendment to its filing of the General Participation Agreement of the MOKAN Power Pool dated April 19, 1989 (Agreement).

The amendment is necessary to correct certain clerical errors and clarify certain rates for service in the Agreement as originally filed.

KPL states that the following are presently Participants under the General Participation Agreement being superseded, with the following FPC Rate Schedule Numbers:

Kansas City Power & Light Company, Rate Schedule FPC No. 32
Missouri Public Service, Rate Schedule FPC No. 8
The Empire District Electric Co., Rate Schedule FPC No. 73
Kansas Gas and Electric Company, Rate Schedule FPC No. 94
The Kansas Power and Light Co., Rate Schedule FPC No. 7
Centel Electric—Kansas, Rate Schedule FPC No. 53
St. Joseph Light & Power Company, Rate Schedule FPC No. 17
Midwest Energy, Inc.
Sunflower Electric Cooperative, Inc.
Board of Public Utilities of the City of Kansas City, Kansas
Independence Power & Light, Department of the City of Independence, Missouri

KPL states that all Participants under the Agreement concur with the amendment.

Copies of this amendment were served upon each MOKAN Power Pool Participants, the Kansas Corporation Commission and the Missouri Public Service Commission.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

31. Kansas City Power & Light Company

[Docket No. ER89-549-000]

July 20, 1989.

Take notice that on July 13, 1989, Kansas City Power & Light Company (KCPL) tendered for filing a Second Amendatory Agreement to Municipal Participation Agreement, between KCPL and the City of Garnett, Kansas dated June 13, 1989. KCPL states that the Amendatory Agreement provides for an extension of the contract term and a modified rate design for firm power services.

KCPL requests an effective date of July 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Comment date: July 7, 1989, in accordance with Standard paragraph E at the end of this notice.

32. Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER89-545-000]

July 20, 1989.

Take notice that on July 10, 1989, Public Service Company of Oklahoma ("PSO") and Southwestern Electric Power Company ("SWEPCO") tendered for filing an amendment to the Western Systems Power Pool ("WSPP") experimental tariff in order to include PSO and SWEPCO, acting through Central and South West Services, Inc., as members of the WSPP. The WSPP Executive Committee has approved

PSO's and SWEPCO's participation in the pool which permits, on an experimental basis, flexible pricing of energy and transmission services.

33. Niagara Mohawk Power Corporation

[Docket No. ER89-544-000]

July 20, 1989.

Take notice that on July 10, 1989, Niagara Mohawk Power Corporation (Niagara), tendered for filing as a rate schedule, an agreement between Niagara Mohawk and Central Hudson Gas and Electric Corporation (Central Hudson) dated June 16, 1989.

Niagara presently has on file an agreement with Central Hudson dated November 1, 1983. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 128. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the rate for providing transmission service for Central Hudson for the delivery of pumping and generating energy in connection with pumped storage power service provided to Central Hudson by the Power Authority of the State of New York (PASNY) from PASNY's Blenheim-Gilboa Pumped Storage Project. Niagara requests an effective date of July 1, 1989.

Copies of the filing were served upon the following:

Central Hudson Gas and Electric Corporation, 284 South Avenue, Poughkeepsie, New York 12602.
Public Service Commission, State of New York, Three Empire State Plaza, Albany, New York 12223.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

34. Pennsylvania Power & Light Company

[Docket No. ER89-554-000]

July 20, 1989.

Take notice that on July 14, 1989, Pennsylvania Power & Light Company ("PP&L") tendered for filing an executed agreement dated as of July 11, 1989, between PP&L and Niagara Mohawk Power Corporation ("Niagara Mohawk"), which supplements the System Energy Sales Agreement, dated March 1, 1983, on file with the Commission as PP&L's Rate Schedule FERC No. 78. The proposed rate schedule provides for the sale of short-term electric capability and energy from PP&L's Martins Creek Units 3 and 4 to Niagara Mohawk.

The rate schedule provides for a maximum reservation charge of $808 per megawatt week and a delivery charge of PP&L's actual cost of producing the energy plus a maxium charge of $17/Mwh reflecting foregone interchange savings.

PP&L requests waiver of the notice requirements of section 205 of the Federal Power Act and section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of July 14, 1989, in accordance with the anticipated commencement of service.

PP&L states that a copy of its filing was served on Niagara Mohawk, the Pennsylvania Public Utility Commission, and the New York Public Service Commission.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

35. Pennsylvania Power & Light Company

[Docket No. ER89-553-000]

July 20, 1989.

Take notice that on July 14, 1989, Pennsylvania Power & Light Company ("PP&L") tendered for filing a Supplemental Agreement ("Agreement"), dated March 13, 1989, between PP&L, Safe Harbor Water Power Corporation ("Safe Harbor") and Baltimore Gas and Electric Company ("BG&E"). The Agreement supplements the Transmission Contract ("Contract") dated July 20, 1960, between PP&L, Safe Harbor and BG&E, which is on file with the Commission as PP&L's Rate Schedule FPC No. 23.

The Contract sets forth the terms and conditions under which PP&L will transmit BG&E's share of the electric output from the Safe Harbor hydroelectric generating station to BG&E. The Agreement provides for an increase in the transmission charge to reflect facility upgrades required to provide the transmission service. PP&L is requesting an effective date of June 1, 1987 for the Agreement.

Copies of the filing were served upon BG&E, Safe Harbor, the Pennsylvania Public Utility Commission, and the Maryland Public Service Commission.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

36. Northeast Utilities Service Company

[Docket No. ER89-550-000]

July 20, 1989.

Take notice that on July 13, 1989, Northeast Utilities Service Company (NUSCO) tendered for filing a First Amendment to Exchange Agreement between The Connecticut Municipal Electric Energy Cooperative (CMEEC) and NUSCO, as agent for The Connecticut Light and Power Company (CL&P), dated June 19, 1989, amending Exchange Agreement between CMEEC, CL&P, and Hartford Electric Company (HELCO), dated September 15, 1981, previously submitted and filed as FERC Rate Schedule Nos. CL&P 233 and Supplement Nos. 1-3 thereto and HELCO 233.

NUSCO states that the rate schedule changes were made by mutual agreement of the parties. The rate schedule changes provide for (i) changes of units and unit amounts under exchange, and (ii) the assignment to CL&P of HELCO's rights and obligations under the Exchange Agreement.

NUSCO states that copies of this rate schedule have been mailed or delivered to CL&P and CMEEC. NUSCO further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: August 7, 1989, in accordance with Standard Paragraph E at the end of this notice.

37. Pennsylvania Power & Light Company

[Docket No. ER89-389-000]

July 20, 1989.

Take notice that on Pennsylvania Power & Light Company (PP&L) on June 19, 1989 tendered for filing the First Supplement to the Electric Output Sale Agreement, dated as of June 16, 1989, between PP&L and Northeast Utilities Service Company, as agent for the Connecticut Light and Power Company and Western Massachusetts Electric Company (NU Companies), which was filed with the Federal Energy Regulatory Commission on April 28, 1989.

The First Supplement to the Electric Output Sales Agreement clarified the basis by which PP&L's foregone interchange savings, if any, will be determined for each transaction under the Electric Output Sales Agreement (Agreement) and establishes a floor for the energy charges for delivered electrical output under the Agreement.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and Section 35.3 of the Commission's Regulations so that the Agreement and the First Supplement to the Agreement can be made effective as of May 1, 1989, in accordance with the commencement of service.

PP&L states that a copy of its filing was served on NU Companies, the Pennsylvania Public Utility Commission, the Connecticut Public Utilities Control Authority and the Massachusetts Department of Public Utilities.

Comment date: August 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

38. Minnesota Power & Light Company

[Docket No. ER89-540-000]

July 20, 1989.

Take notice that on June 28, 1989, Minnesota Power & Light Company (MP&L) tendered for filing documents describing certain high voltage rate adjustments that MP&L has agreed to provide to the city of Brainerd, Minnesota in connection with the sale by MP&L to Brainerd of certain transmission facilities.

Comment date: July 26, 1989. In accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission

Lois D. Cashell,

Secretary.

[FR Doc. 89-17592 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10222-001 Washington]

Baker Mountain Hydro Electric Co.; Surrender of Preliminary Permit

July 21, 1989.

Take notice that Baker Mountain Hydro Electric Company, Permittee for the Barometer Creek Project No. 10222, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10222 was issued July 28, 1987, and would have expired June 30, 1990. The project would have been located on Barometer Creek within the Snoqualmie-Mt. Baker National Forest in Whatcom County, Washington.

The Permittee filed the request on July 10, 1989, and the preliminary permit for Project No. 10222 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17518 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10328-001 Washington]

Skagit River Hydro; Surrender of Preliminary Permit

July 21, 1989.

Take notice that Skagit River Hydro, permittee for the Alma/Copper Creek Project No. 10328, to be located on Alma and Copper Creeks in Skagit County, Washington, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 28, 1987, and would have expired on June 30, 1990.

The permittee filed the request on July 10, 1989, and the preliminary permit for Project No. 10328 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17519 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-186-001]

Great Lakes Gas Transmission Co.; Compliance Filing

July 21, 1989.

Take notice that on July 17, 1989, Great Lakes Gas Transmission Company (Great Lakes) filed Substitute Eighth Revised Sheet No. 223, Substitute Seventh Revised Sheet No. 294, Third Revised Sheet No. 295, and Corrected Second Revised Sheet No. 466 to its FERC Gas Tariff, Original Volume No. 2, to be effective July 1, 1989.

Great Lakes states that in compliance with the Commission's Order issued June 30, 1989, it eliminated certain minimum bill provisions contained on Sheet Nos. 223, 294 and 295. Great Lakes states that Corrected Second Revised Sheet No. 466 corrects a typographical error.

Great Lakes states that copies of this filing are being served on each of its customers, the Public Service Commissions of Minnesota, Wisconsin and Michigan and the persons listed on the Commission's service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before July 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17520 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-206-000]

Northern Natural Gas Co.; Filing

July 20, 1989.

Take notice that on July 17, 1989 Northern Natural Gas Company, Division of Enron Corp., tendered for filing to become a part of Northern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Third Revised Sheet No. 52c.5
Second Revised Sheet No. 52f.7

Northern proposed to eliminate from sections 9(c) and 10(c) of its Rate Schedules IT-1 and FT-1 respectively a provision which assesses one-half (½) of the transportation commodity rate per MMBtu for fuel, use and unaccounted for quantities delivered by Shippers for use by Northern in providing transportation services.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person

wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17521 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-185-002]

Panhandle Eastern Pipe Line Co. Proposed Changes in FERC Gas Tariff

July 20, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on July 17, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Original Sheet No. 3-B.1
Eighteenth Revised Sheet No. 43-3
First Substitute Original Sheet No. 43-15
First Substitute Original Sheet No. 43-16
First Substitute Original Sheet No. 43-17

The effective date of these revised tariff sheets is July 1, 1989.

Panhandle states that these proposed tariff sheets are being filed in compliance with the Commission's Order dated June 30, 1989 in Docket No. RP89-185-000 to establish for a limited period from July 1, 1989 through March 31, 1991 a Seasonal Sales Program that will be used to determine the commodity rates applicable to Panhandle's sales services in lieu of the current Purchased Gas Adjustment (PGA) mechanism.

Panhandle states that these revised tariff sheets reflect the following revisions to the General Terms and Conditions of its FERC Gas Tariff as directed by the Commission's Order to: (1) Provide for a mechanism to handle pipeline suppliers' demand refunds in § 18.4; (2) include language in § 18.47 describing how the Annual PGA pipeline suppliers' demand surcharge will be calculated; (3) revise language in § 25.1 to state that a tariff sheet will be filed showing the commodity rates for the applicable month by the last day of the month prior to the month the rates will be effective; (4) include language in § 25.3 to provide that Panhandle will not seek to recover any underrecovered balance in the Deferred Purchased Gas Cost Account as of April 1, 1991 under this section 25; (5) include language to provide that Panhandle will notify its customers of monthly purchase deficiencies by the fifth day of the following month; and (6) include language to specify the treatment of costs incurred during the Seasonal Sales Program but billed to Panhandle after the termination of the Program.

Panhandle further states that the revised tariff sheets reflect necessary conforming changes, as more fully described in the subject filing.

Panhandle further states that this filing is without prejudice to Panhandle's rights on rehearing and any subsequent review of the conditions contained in the Commission's June 30, 1989 Order.

Panhandle states that copies of its filing have been served on all parties, affected jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17522 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-205-000]

Point Arguello Natural Gas Line Co.; Initial Filing of Rate Schedules in Compliance With Order Nos. 509 and 509-A

July 20, 1989.

Take notice that on July 17, 1989, Point Arguello Natural Gas Line Company (PANGL) tendered for filing initial rate schedules pursuant to the provisions of Order Nos. 509 and 509-A and the applicable provisions of the Federal Energy Regulatory Commission's Regulations, the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 1
First Revised Sheet No. 4
First Revised Sheet No. 13
Original Sheet Nos. 20 through 40
First Revised Sheet No. 101
First Revised Sheet No. 206
Original Sheet Nos. 207 through 216
First Revised Sheet No. 300

The proposed effective date of these revised tariff sheets is August 11, 1989. PANGL requests any necessary waivers of the Commission's Regulations, particularly § 154.51, in order for it to coordinate the start-up of its facilities and the effective date of the filing.

In accordance with the provisions of the Commission's Regulations, PANGL submits that these tariffs sheets reflect establishment of initial Rate Schedules for firm and interruptible transportation service under 18 CFR Part 284, Subpart K of the Commission's Regulations.

PANGL proposes to retain its Cost of Service tariff (Rate Schedule T-1) for its partner-shippers in addition to its FT and IT Rate Schedules for any prospective non-partner-shippers. PANGL recognizes the possibility that shippers under T-1 may pay more per unit for transportation than FT and IT shippers, or vice versa. To avoid any undue discrimination, PANGL proposes that the stated rates for FT and IT be "ceiling rates" which decline as the unit cost to shippers under Rate Schedule T-1 declines. This means that the rates to non-partner-shippers can never be more than the unit charges to partner-shippers; on the other hand, they can be less and the partners bear the risk associated therewith. It is the PANGL's viewpoint that its proposal is consistent with the Commission's policy and objectives as expressed in Section 284.7 of its Regulations.

Copies of this filing are being served on affected jurisdictional customers and intervenors.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such motions should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-17523 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-120-003]

Questar Pipeline Co., Tariff Filing

July 20, 1989.

Take notice that Questar Pipeline Company on July 14, 1989, tendered for filing and acceptance the following tariff sheets to its FERC Gas Tariff:

First Revised Volume No. 1

Tariff sheet	Proposed effective date
Second Substitute Twenteith Revised Sheet No. 12.	May 1, 1989.
Substitute Second Revised Sheet No. 12–A.	May 1, 1989.
Second Substitute Twenty-First Revised Sheet No. 12.	June 1, 1989.
Substitute Third Revised Sheet No. 12–A.	June 1, 1989.
Substitute Twenty-Second Revised Sheet No. 12.	July 1, 1989.
Fourth Revised Sheet No. 12–A	July 1, 1989.
Second Substitute Original Sheet No. 17–A.	May 1, 1989.
Second Substitute Original Sheet No. 17–B.	May 1, 1989.
First Revised Sheet No. 17–B	June 1, 1989.

Original Volume No. 1–A—June 1, 1989, Proposed Effective Date

Substitute Ninth Revised Sheet No. 5
Substitute Second Revised Sheet No. 20
Substitute Second Revised Sheet No. 43
Substitute Second Revised Sheet No. 67
Substitute Third Revised Sheet No. 79
Substitute Original Sheet No. 114–B
Substitute Original Sheet No. 114–C
Second Substitute Third Revised Sheet No. 117
Substitute Third Revised Sheet No. 132

Original Volume No. 3—June 1, 1989, Proposed Effective Date

Substitute Twelfth Revised Sheet No. 8

Questar Pipeline states that this filing is made pursuant to 18 CFR 154.63(a)(1) and in compliance with ordering paragraph (A)(4) of the Commission's June 29, 1989, order issued in Docket No. RP89–120–002. Questar Pipeline states that it has provided a copy of this filing to its transportation and sales customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–17524 Filed 7–26–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA89–1–8–001 and TF89–3–8–001]

South Georgia Natural Gas Co., Proposed Changes to FERC Gas Tariff

July 21, 1989.

Take notice that on July 17, 1989, South Georgia Natural Gas Company ("South Georgia") tendered for filing Substitute Fifty-Third Revised Sheet No. 4 and Substitute Fifty-Fourth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets are being filed with a proposed effective date of July 1, 1989.

South Georgia states that Substitute Fifty-Third Revised Sheet No. 4 is submitted in compliance with the Commission's order of June 30, 1989, in Docket No. TA89–1–8–000. The June 30th order directed South Georgia to file revised rates within fifteen (15) days of the issuance of the order together with additional information with regard to Account No. 191. The tariff filing was to reflect a recalculation of South Georgia's surcharge adjustment based on a 12-month rather than a three-year amortization.

South Georgia states that Substitute Fifty-Fourth Revised Sheet No. 4 also reflects a recalculation of the surcharge adjustment to a 12-month amortization and supersedes Fifty-Fourth Revised Sheet No. 4 which was filed on June 29, 1989 in Docket No. TF89–3–8–000 and accepted by the Commission on July 10, 1989.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers and interested state commissions as well as the parties to these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§ 385.214 and 385.211). All such motions or protests should be filed on or before July 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–17525 Filed 7–26–89; 8:45 am]

BILLING CODE 6717–01–M

Tennessee Gas Pipeline Co.; Notice of Filing

[Docket No. RP88–191–011]

July 20, 1989.

By order issued June 30, 1989 in the referenced proceeding, the Commission accepted tariff sheets filed by Tennessee Gas Pipeline Company (Tennessee) to be effective July 1, 1989 reflecting the fixed take-or-pay charge applicable to Tennessee's firm sales customers subject to Tennessee refiling those sheets to reflect the elimination of charges related to foregone revenue associated with transportation discounts. Accordingly, take notice that on July 14, 1989, Tennessee filed Second Substitute Second Revised Sheet Nos. 40 through 44 to Second Revised Volume No. 1 of its FERC Gas Tariff.

Tennessee states that the sheets reflect a reduction of $8,719,000 to the take-or-pay and contract reformation costs to be recovered from Tennessee's firm sales customers pursuant to the Stipulation and Agreement (October 14, 1987) in Docket Nos. RP86–119, *et al.* as modified by the Commission. This amount is one-half of the amount of foregone revenue that Tennessee has incurred or is known and measurable as of March 31, 1989, associated with transportation discounts granted to producers in consideration for contract reformation or take-or-pay settlements.

The tariff sheets are proposed to be effective July 1, 1989.

Tennessee respectfully requests that the Commission grant any waivers it deems necessary for the acceptance of this filing.

Tennessee states that copies of the filing have been mailed to all parties in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17526 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-5-29-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

July 21, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on July 18, 1989 First Revised Sheet No. 12-E to its FERC Gas Tariff Second Revised Volume No. 1. The proposed effective date is May 1, 1989.

Transco states that this filing supplements its filing of April 10, 1989 in Docket Nos. RP88-68-011 and RP89-122-001 to reflect the appropriate Commodity PSP Charge to be effective commencing May 1, 1989. In that regard, Transco's April 10 filing set forth the calculations of the Fixed and Commodity PSP Charges for the second Annual Recovery Period (Year 2) commencing May 1, 1989. The resulting Year 2 Commodity PSP Charge of 11.1¢ per dt was identical to the Commodity PSP Charge for the initial Annual Recovery Period (Year 1) which had become effective May 1, 1988; consequently, Transco did not file a revised Sheet No. 12-E to be effective commencing May 1, 1989. However, subsequent to the April 10 filing, Transco filed on June 27, 1989 in Docket No. TM89-4-29, revisions to the Year 1 Fixed and Commodity PSP Charges to reflect the actual quarterly FERC interest rates in effect for Year 1. This resulted in a revised Year 1 Commodity PSP Charge of 11.2¢ per dt to be effective May 1, 1988. Therefore, Transco is making the instant filing to reflect the Year 2 Commodity PSP Charge of 11.1¢ per dt commencing May 1, 1989.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17527 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-42-000]

Transwestern Pipeline Co.; Compliance Filing

July 20, 1989.

Take notice that on July 17, 1989, Transwestern Pipeline Company (Transwestern) filed in compliance with the Commission Order issued June 30, 1989, the supplemental information as required by the Commission.

The Commission's order accepted and suspended, subject to refund the rates as filed in Docket No. TA89-1-42-000, to be effective July 1, 1989. Such tariff sheets are subject to the Commission's review and approval of the information being filed herein, as well as the ongoing proceedings in Docket Nos. TA88-4-42-000, *et. al.* and RP89-130-000 *et. al.*

Transwestern has been directed to remove all take-or-pay related settlement costs from its PGA, to the extent any of the same costs are contained in any of Transwestern's three Order No. 500 filings. Specifically, the Commission identified approximately $1.6 million of producer pricing settlements included in this PGA filing which the Commission believes may have also been included in Transwestern's Order No. 500 filings. However, the producer pricing settlements underlying the $1.6 million do not involve Order No. 500 take-or-pay related disputes, and Transwestern has not attempted to recover these costs through any of its Order No. 500 filings. As a result, no revisions to the rates is required by the Commission's June 30, 1989 order.

Pursuant to Ordering Paragraph A(2), Transwestern is submitting a more detailed explanation concerning Transwestern's gas purchase projections during the period, wherein, the assessment test for Interval Three was in excess of 103%. (See Tab 1)

Pursuant to Ordering Paragraph A(3), Transwestern has provided the required information regarding those purchases in excess of $5.00 per MMbtu. (See Tab 2) Also, pursuant to Ordering Paragraph A(3) Transwestern has enclosed an enhanced purchasing policy strategy statement. (See Tab 3)

Finally, Transwestern has been directed to recalculate the compounded carrying charges on the credit billing adjustments for the period March 1, 1988 through February 28, 1989, and to reflect the adjustment in its next annual PGA filing. Transwestern has herewith made a credit adjustment of $152,620,000 to its May 1989 Subaccount No. 191.400.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with § 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 1, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are available for public inspection in the Public Conference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17528 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IN86-5-012, et al.]

United Gas Pipe Line Co. et al.; Filing of Pipeline Refund Reports

July 21, 1989.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, on or before August 11, 1989. Copies of the respective

filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

APPENDIX

Filing Date	Company	Docket No.
6/27/89	United Gas Pipe Line Company.	IN86-5-012
6/30/89	Tennessee Gas Pipeline Company.	IN86-6-004
6/30/89	Northwest Pipeline Corporation.	RP85-13-031
7/5/89	Algonquin Gas Transmission Company.	RP72-110-050
7/11/89	Questar Pipeline Company.	RP86-87-008

[FR Doc. 89-17529 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-179-002]

Western Gas Interstate Co.; Tariff Filing

July 21, 1989.

Take notice that on July 18, 1989, Western Gas Interstate Company ("Western") filed certain tariff sheets to its FERC Gas Tariff.

Western states that the filing has the following purposes. First, Western states that following its filing of May 22, 1989 in this proceeding, it discovered that certain tariff sheets contained typographical and clerical errors. Thus, Western is submitting the following tariff sheets to correct those errors.

Second Revised Volume No. 1—Original Sheet Nos. 4, 6, 10, 11. Substitute Original Sheet Nos. 102, 103, 125, 135, 144, 154, 227, 239, 240.

Original Volume No. 2—Substitute Original Sheet Nos. 159A–159D, 169–171, 195A–195F, 206–208, 233, 234. Substitute First Revised Sheet Nos. 100, 151, 181, 221.

Second, Western is filing the following tariff sheets in compliance with the Commission's June 21, 1989, "Order Accepting and Suspending Certain Tariff Sheets Subject to Refund and Conditions, Rejecting Certain Tariff Sheets, and Establishing Hearing Procedures" (47 FERC 61,423).

Second Revised Volume No. 1—Original Sheet Nos. 214A, 217. First Revised Sheet Nos. 125, 136, 144, 154, 214, 215.

Third, Western states that it discovered the omission of Schedule N-3-1 and per books data in Schedule N-5 from the May 22, 1989 filing. Those schedules are included as part of the instant filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such protests should be filed on or before July 28, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons who are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17530 Filed 7-26-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 89-30-NG]

Petro-Canada Hydrocarbons Inc.; Application to Extend Blanket Authorization Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for extension of blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice to receipt on May 17, 1989, of an application filed by Petro-Canada Hydrocarbons Inc. (PCH) requesting that blanket authority previously granted in DOE/ERA Opinion and Order No. 100 (Order 100), issued January 3, 1986 (DOE/ERA Docket No. 85-29-NG), and extended in DOE/ERA Opinion and Order No. 269 (Order 269), issued September 6, 1988 (DOE/ERA Docket No. 88-36-NG), be further extended for one year beginning on March 3, 1990, the expiration of its current import authorization, through the period ending March 3, 1991. PCH's existing blanket import authorization allows it to import up to a maximum of 75 BCF of Canadian natural gas. Under the extension requested, PCH would be authorized to import volumes not to exceed, in the aggregate, 75 BCF of Canadian natural gas over a one-year period.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, request for additional procedures and written comments are to be filed no later than August 28, 1989.

FOR FURTHER INFORMATION CONTACT:

William Daroff, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9516

Michael Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: PCH is a wholly-owned subsidiary of Petro-Canada Inc. (PCI). The gas would continue to be supplied by PCI or such supply sources as may become available and sold by PCH on a short term or spot basis to local gas distribution companies, natural gas pipelines, and direct sale customers in California, the Pacific Northwest, the Middle West, and other areas in the U.S. as market opportunities develop. PCH will act either as agent of PCI or will itself resell gas it has purchased. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. PCH intends to use existing pipeline facilities to transport the gas.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement will be competitive and thus in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines

for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., August 28, 1989.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PCH's application is available for inspection and copying the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 18, 1989.

Constance L. Buckley,

Acting Deputy Assistant Secretary for Fuels Programs Fossil Energy.

[FR Doc. 89–17590 Filed 7–26–89; 8:45 am]

BILLING CODE 6450–01–M

Southeastern Power Administration

Cumberland Basin Projects; Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration.

ACTION: Notice of order confirming and approving power rates on an interim basis for the Cumberland Basin Projects.

SUMMARY: Notice is given of Rate Order No. SEPA–26 of the Deputy Secretary of the Department of Energy confirming and approving on an interim basis Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B and CTV–1–B for Cumberland Basin Projects' power. The rates were approved on an interim basis through June 30, 1994, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective on July 1, 1989.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Power Marketing Division, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635

Rodney Adelman, Director, Washington Liaison Office, Department of Energy, James Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued December 27, 1984, in Docket No. EF84–3021 confirmed and approved Wholesale Power Rate Schedules CBR–1–A, CSI–1–A, CEK–1–A, CC–1–A, CM–1–A, CK–1–A and CTV–1–A for the period ending June 30, 1989. The Federal Energy Regulatory Commission by Order issued January 20, 1987, in Docket No. EF86–3021 confirmed and approved Wholesale Power Rate Schedule CC–1–B, which replaced CC–1–A, through June 30, 1989.

Issued in Washington, DC, June 30, 1989.

W. Henson Moore,

Deputy Secretary.

[Rate Order No. SEPA–26]

Order Confirming and Approving Power Rates on an Interim Basis

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southern Power Administration (Southeastern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis or to disapprove rates developed by the Administrator under the delegation. By DOE N 1110.29 dated October 27, 1988, published at 54 FR 3841 (January 26, 1989) the Secretary redelegated the authority from the Under Secretary to the Deputy Secretary to approve such rates on an interim basis. This rate order is issued pursuant to the delegation to the Deputy Secretary.

Background

Power from the Cumberland Basin Projects is presently sold under Wholesale Power Rate Schedules CBR–1–A, CSI–1–A, CEK–1–A, CC–1–B, CM–1–A, CK–1–A and CTV–1–A confirmed and approved through June 30, 1989. Wholesale Power Rate Schedules CBR–

1–A, CSI–1–A, CEK–1–A, CC–1–A, CM–1–A, CK–1–A and CTV–1–A were approved by the Federal Energy Regulatory Commission by order issued December 27, 1984, for a period beginning July 1, 1984, and ending June 30, 1989. Wholesale Power Rate Schedule CC–1–B, which replaced CC–1–A, was approved by the Federal Energy Regulatory Commission by Order issued January 20, 1987, for a period beginning September 1, 1986, and ending June 30, 1989.

Public Notice and Comment

Opportunities for public review and comment on Wholesale Power Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B and CTV–1–B, proposed for use during the period July 1, 1989, through June 30, 1989, were announced by Notice published in the Federal Register on February 14, 1989, and all customers were notified by mail. A Public Information and Comment Forum was held in Nashville, Tennessee, on March 21, 1989, and written comments were invited by the Notice through May 3, 1989. No comments were presented at the forum and written comments were received prior to May 3, 1989. All comments were evaluated by Southeastern. A summary of six substantial comments evaluated follows:

Comment 1: Southeastern sells power at rates less than market.

Response: The Flood Control Act of 1944 and RA 6120.2 establish that rates shall be prepared at cost, not market.

Comment 2: Underestimated costs and overestimated revenues have been borne by the taxpayer.

Response: Southeastern does not agree with this statement. All costs of the power systems are borne by the rate payers. If costs are underestimated or revenues are overestimated, then the differences are made up in future years plus interest.

Comment 3: End the 5-year limitation on rate adjustments.

Response: One commenter suggested that it is important to get rid of the 5-year limitation on rate filings. Southeastern agrees and will attempt to do that on any new contracts signed.

Comment 4: End the rolling repayment on normal investments.

Response: One commenter believes that when Southeastern adds a new investment, it extends the life of all other investments to 50 years from the last investment. Southeastern does not have a rolling repayment period. Each investment must be repaid within 50 years of the time it is placed in service.

Comment 5: Southeastern should implement repayment reform as proposed by the 1990 budget.

Response: The Department of Energy may propose legislation to implement repayment reform. When that legislation is enacted into law, Southeastern will conform to the legislation. Until then, Southeastern will follow the DOE regulation RA 6120.2 to establish rates.

Comment 6: Eliminate the practice of paying high interest bearing investment first whenever possible.

Response: The DOE regulation RA 6120.2 establishes the method of amortization.

Discussion

System Repayment

An examination of Southeastern's system power repayment study prepared in May 1989 for the Cumberland Basin Projects reveals that with an annual revenue increase of $4,485,000, over the current revenues shown in the previous February 1989 repayment study, all system power costs are paid within their repayment life. Additionally, it appears that Wholesale Power Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B and CTV–1–B are designed so as to produce revenue adequate to recover on a timely basis all system power costs. The Administrator of Southeastern has certified that the rates are consistent with the applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Rate Design

After consultation with TVA and other customers, three areas were considered in the design of rates. These areas are the allocation of generation costs between capacity and energy, the proper amount of transmission within the TVA area to be paid by the customers outside the TVA area, and the level of reserve for contingencies. Southeastern has allocated approximately 60 percent of the generation costs to energy and 40 percent to capacity. This is similar to the allocations that were made after extensive study in the 1984 rate filing and approximated the capacity-energy relationship of various utilities in and around the Cumberland area. Southeastern and TVA disagreed on the amount of TVA's transmission cost of $5,033,000 that should be allocated to customers outside the TVA area. Transmission cost that is included in this rate filing is 165 megawatts at $21.50 per kilowatt per year or $3,548,000. Reserve for contingencies included in this filing is approximately 2 percent which increased from approximately 1 percent which was included in the 1984 rate filing. TVA has agreed not to comment on these rates.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rate schedules, including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Washington Liaison Office, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning July 1, 1989, and ending no later than June 30, 1994.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1989, attached Wholesale Power Rate Schedules CBR–1–B, CSI–1–B, CEK–1–B, CC–1–C, CM–1–B, CK–1–B and CTV–1–B. The rate schedules shall remain in effect on an interim basis through June 30, 1994, unless such period is extended or until the Federal Energy Regulatory Commission confirms and approves it or substitute rate schedules on a final basis.

Issued in Washington, DC, June 30, 1989.

W. Henson Moore,

Deputy Secretary.

Wholesale Power Rate Schedule CBR–1–B

Availability: This rate schedule shall be available to Big Rivers Electric

Corporation and includes the city of Henderson, Kentucky, (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission systems of the Customer.

Points of Delivery: Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.726 per kilowatt/month of total contract demand.

Energy Charge: 6.171 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

Wholesale Power Rate Schedule CSI–1–B

Availability: This rate schedule shall be available to Southern Illinois Power Cooperative (hereinafter the Customer).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery: Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $1.726 per kilowatt/month of total contract demand.

Energy Charge: 6.171 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administration's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts available for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

Wholesale Power Rate Schedule CEK–1–B

Availability: This rate schedule shall be available to East Kentucky Power Cooperative (hereinafter called the Customer).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and power available from the Laurel Project and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of the Customer.

Points of Delivery: The points of delivery will be the 161,000 volt bus of the Wolf Creek Power Plant and the 161,000 volt bus of the Laurel Project. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule from the Cumberland Projects shall be:

Demand charge: $1.726 per kilowatt/month of total contract demand.

Energy Charge: 6.171 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand plus 369 kilowatt-hours of energy delivered for each kilowatt of contract demand to supplement energy available at the Laurel Project. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside the TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service: The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

Wholesale Power Rate Schedule CM–1–B

Availability: This rate schedule shall be available to the South Mississippi Electric Power Association and Municipal Energy Agency of Mississippi (hereinafter called the Customers).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Mississippi Power and Light.

Points of Delivery: The points of delivery will be at interconnection points of the Tennessee Valley Authority system and the Mississippi Power and Light system. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $1.726 per kilowatt-month of total contract demand.

Energy Charge: 6.171 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government shall

make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exced 220 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Service Interruption: When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

Wholesale Power Rate Schedule CC–1–C

Availability: This rate schedule shall be available to public bodies and cooperatives served through the facilities of Carolina Power & Light Company, Western Division (hereinafter called the Customers).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission system of Carolina Power & Light Company, Western Division.

Points of Delivery: The points of delivery will be at interconnecting points of the Tennessee Valley Authority system and the Carolina Power & Light Company, Western Division system. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.965 per kilowatt/month of total contract demand.

Energy Charge: 6.565 mills per kilowatt-hour.

Transmission Charge: $1.66 per kilowatt of total contract demand.

The transmission rate is subject to annual adjustment on April 1 of each year and will be computed subject to the formula in Appendix A attached to the Government—Caroline Power & Light Company contract.

Energy to be Furnished by the Government: The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less six percent (6%) losses). The Customer's contract demand and accompanying energy allocation will be devided pro rata among its individual delivery points served from the Carolina Power & Light Company's Western Division transmission system.

Billing Month: The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Wholesale Power Rate Schedule CK–1–B

Availability: This rate schedule shall be available to public bodies served through the facilities of Kentucky Utilities Company (hereinafter called the Customers).

Applicability: This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the "Cumberland Projects") and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Kentucky Utilities Company.

Points of Delivery: The points of delivery will be at interconnecting points between the Tennessee Valley Authority system and the Kentucky Utilities Company system. Other points of delivery may be as agreed upon.

Monthly Rate: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge: $1.726 per kilowatt/month of total contract demand.

Energy Charge: 6.171 mills per kilowatt-hour.

Energy to be Furnished by the Government: The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the

following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 220 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 220 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of thse Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1,500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

Billing Month: The billing month for power sold under this schedule shall end at 2,400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Wholesale Power Rate Schedule CTV–1–B

Availability: This rate schedule shall be available to the Tennessee Valley Authority (hereinafter called TVA).

Applicability: This rate schedule shall be applicable to electric capacity and energy generated at the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the "Cumberland Projects") and the Laurel Project sold under agreement between the Department of Energy and TVA.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of approximately 60 Hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Montly Rates: The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.116 per kilowatt/month of total demand as determined by the agreement between the Department of Energy and TVA.

Energy Charge: 6.048 mills per kilowatt-hour.

Energy to be Made Available: The Department of Energy shall determine the energy that is available from the projects for declaration in the billing month.

To meet the energy requirements of the Department of Energy's customers outside the TVA area (hereinafter called Other Customers), 749,400 megawatt-hours of net energy shall be available annually (including 36,900 megawatt-hours of annual net energy to supplement energy available at Laurel Project) provided, that if additional energy is required to make a marketing arrangement viable for other customers which do not own generating facilities and which are within service areas of Kentucky Utilities Company and Carolina Power & Light Company, Western Division, such additional energy required shall be made available from the Cumberland Projects and shall not exceed 300 kilowatt-hours per kilowatt per year. The energy requirement of the Other Customers shall be available annually, divided monthly such that the maximum available in any month shall not exceed 220 hours per kilowatt of total Other Customers contract demand, and the minimum amount available in any month shall not be less than 60 hours per kilowatt of total Other Customers demand.

In the event that any portion of the capacity allocated to Other Customers is not initially delivered to the Other Customers as of the beginning of a full contract year (July through June), the 1500 hours, plus any such additional energy required as discussed above, shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

The energy scheduled by TVA for use within the TVA System in any billing month shall be the total energy delivered to TVA less (1) an adjustment for fast or slow meters, if any, (2) an adjustment for Barkley-Kentucky Canal of 15,000 megawatt-hours of energy each month which is delivered to TVA under the agreement from the Cumberland Projects without charge to TVA, (3) the energy scheduled by the Department of Energy in said month for the Other Customers plus losses of two (2) percent, and (4) station service energy furnished by TVA.

For all such energy and for other benefits TVA realizes from the agreement, TVA shall pay the Department of Energy.

Billing Month: The billing month for capacity and energy sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Service Interruption: When delivery of capacity to TVA is interrupted or reduced due to conditions on the Department of Energy's system which are beyond its control, the Department of Energy will continue to make available the portion of its declaration of energy that can be generated with the capacity available.

For such interruption or reduction (exclusive of any restrictions provided in the agreement) due to conditions on the Department of Energy's system which have not been arranged for and agreed to in advance, the demand charge for scheduled capacity made available to TVA will be reduced as to the kilowatts of such scheduled capacity which have been so interrupted or reduced for each day in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{Number of days in billing month}} \times \frac{\text{Agreement Capacity}}{\text{880,000 kilowatts}}$$

The agreement capacity related to the 76,000 kilowatts of capacity allocated to the Other Customers in the Carolina Power & Light Company and Kentucky Utilities Service areas shall, irrespective of sale to Other Customers, remain in effect in the formula throughout the term of this rate schedule.

Power Factor: TVA shall take capacity and energy from the Department of Energy at such power factor as will best serve TVA's system from time to time; provided, that TVA shall not impose a power factor of less than .85 lagging on the Department of Energy's facilities which requires operation contrary to good operating

practice or results in overload or impairment of such facilities.

[FR Doc. 89-17591 Filed 7-26-89; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3621-1]

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 as amended on July 1, 1987 (52 FR 24727), has designated another reference method for the determination of ambient concentrations of particulate matter measured as PM_{10}. The new reference method is a gravimetric manual method which utilizes a specially designed PM_{10} sampler for particle collection. The new designated method is identified as follows:

RFPS-0789-073, "Sierra-Andersen Models SA241 and SA241M or General Metal Works Models G241 and G241M PM_{10} Dichotomous Samplers", consisting of the following components:

Sampling Module with SA246b or G246b 10 μm inlet, 2.5 μm virtual impactor assembly, 37 mm coarse and fine particle filter holders, and tripod mount;

Control Module with diaphragm vacuum pump, pneumatic constant flow controller, total and coarse flow rotameters and vacuum gauges, pressure switch (optional), 24-hour flow/event recorder, digital timer/programmer or 7-day skip timer, and elapsed time indicator.

This method is available from the Sierra-Andersen Division of Andersen Samplers, Inc., 4801 Fulton Industrial Blvd., Atlanta, Georgia 30336, or from General Metal Works, Inc. (a wholly-owned subsidiary of Andersen Samplers, Inc.), 145 South Miami, Cleves, Ohio 45002. A notice of receipt of application for this method appeared in the **Federal Register**, Volume 54, February 10, 1989, page 6447.

Test samplers representative of this method have been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that the method should be designated as a reference method. The information submitted by the applicant will be kept on file at the EPA Atmospheric Research and Exposure Assessment Laboratory, Research Triangle Park, North Carolina, and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA regulations implementing the Freedom of Information Act).

As a designated reference method, this method is acceptable for use by states and other control agencies under requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any limitations specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under § 2.8 of Appendix C to 40 CFR Part 58 (Modifications of Methods by Users).

In general, this reference method designation applies to any Sierra-Andersen (SA) or General Metal Works (GMW) PM_{10} dichotomous sampler system that is identical to the system described in the above designation. Current owners of SA or GMW PM_{10} dichotomous samplers, purchased from Andersen Samplers, Inc. or General Metal Works, Inc., are advised to contact the manufacturer to determine the designation status of a specific system configuration or the specific requirements for upgrading existing samplers to be covered under this new designation.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the PM_{10} when it is delivered to the ultimate purchaser.

(2) The PM_{10} sampler must not generate any unreasonable hazard to operators or to the environment.

(3) The PM_{10} sampler must function within the limits of the performance specifications given in Table D-1 of Part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any PM_{10} sampler offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) An applicant who offers PM_{10} samplers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such samplers and to notify them within 30 days if a reference or equivalent method designation applicable to the sampler has been cancelled or if adjustment of the samplers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(6) An applicant who modifies a PM_{10} sampler previously designated as a reference or equivalent method is not permitted to sell the sampler (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the sampler (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the sampler as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Atmospheric Research and Exposure Assessment Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the states in establishing and operating their air quality surveillance systems under Part 58. Technical questions concerning the method should be directed to the manufacturer. Additional information concerning this action may be obtained from Frank F. McElroy, Quality Assurance Division (MD-77), Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-2622.

Erich W. Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89-17576 Filed 7-26-89; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3620-9]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Applications for Reference or Equivalent Method Determinations

Notice is hereby given that the Environmental Protection Agency has received two applications for reference or equivalent method determinations. On June 19, 1989, an application was

received from Wedding & Associates, Inc., P.O. Box 1756, Fort Collins, Colorado 80522, to determine if their PM–10 Beta Gauge Automated Particle Sampler should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53. On June 23, 1989, an application was received from Thermo Environmental Instruments, Inc., 8 West Forge Parkway, Franklin, Massachusetts 02038, to determine if their Model 42 Chemiluminescence NO–NO_2–NO_x Analyzer should be designated by the Administrator as a reference method under 40 CFR Part 53. If, after appropriate technical study, the Administrator determines that these methods should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

Erich W. Bretthauer,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89–17577 Filed 7–26–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3620–8]

Science Advisory Board; Municipal Sludge Incineration Subcommittee for the Environmental Engineering Committee; Teleconference

Under Pub. L. 92–463, notice is hereby given that a teleconference of the Municipal Sludge Incineration Subcommittee of the Science Advisory Board will be held on July 28, 1989 in Room 3307, Environmental Protection Agency Headquarters, 401 M St. SW., Washington DC 20460. Members of the Environmental Engineering Committee may also participate. This meeting will start at 12 noon on July 28, and will adjourn no later than 6:00 p.m. The meeting is open to the public.

The main purpose of this meeting will be to review the Draft Report (version 3) on the proposed Use/Disposal Regulation of Sewage Sludge at 40 CFR Part 503 resulting from the Subcommittee's initial meeting on April 26–27, 1989.

An Agenda for the meeting is available from Marie Miller, Staff Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, Washington DC 20460 (202–383–2552). Members of the public desiring additional information should contact Mr. Samuel Rondberg, Executive Secretary, Research and Development Budget Review Committee, by telephone at (202) 382–2552, or by mail to the Science Advisory Board (A101F) 401 M Street, SW., Washington, DC 20460.

Donald Barnes,

Director, Science Advisory Board.

Dated: July 19, 1989.

[FR Doc. 89–17578 Filed 7–26–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140117; FRL–3621–2]

Access to Confidential Business Information by Meta Inc., and Advanced Sciences, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its subcontractors, META, Incorporated (META) of Arlington, VA and Advanced Sciences, Incorporated (ASI) of Arlington, VA for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB–44, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract no. 68–01–7176, subcontractors META and ASI, of 2000 N. 15th St., Arlington, VA will assist the Office of Toxic Substances' Information Management Division in developing, installing, and maintaining a computer data base which will contain information that may be claimed or determined to be CBI. META and ASI are working as subcontractors under the Computer Sciences Corporation (CSC). Access to TSCA CBI by CSC was previously announced in the **Federal Register** of October 31, 1985 (50 FR 45483).

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide META and ASI access to materials containing CBI submitted under all sections of TSCA, on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters facilities.

Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1990.

META and ASI personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: July 7, 1989.

Linda A. Travers,

Director, Information Management Division.

[FR Doc. 89–17537 Filed 7–26–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–41031; FRL–3621–3]

Twenty-Fourth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Twenty-fourth Report to the Administrator of EPA on May 1, 1989. This report, which revises and updates the Committee's priority list of chemicals, adds no chemicals at this time to the list for priority consideration by EPA in promulgation of test rules under section 4(a) of the Act. The ITC has removed one chemical, diisodecyl phenyl phosphite, (PDDP), from the priority list because EPA has issued a consent order requiring testing of PDDP.

A public record of this report, with support for this action, including comments, is available for public inspection in Rm. NE G–004 at the address noted below from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. EPA invites interested persons to submit written comments on the report.

DATE: Written comments should be submitted by August 28, 1989.

ADDRESS: Send written submissions to: TSCA Public Docket Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE G–004, 401 M St., SW., Washington, DC 20460. Submissions should bear the document control number (OPTS–41031).

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: EPA has received the TSCA Interagency Testing Committee's Report to the Administrator.

I. Background

TSCA (Pub. L 94–469, 90 Stat. 2003 *et seq;* 15 U.S.C. 2601 *et seq.*) authorizes the Administrator of EPA to promulgate regulations under section 4(a) requiring testing of chemical substances and mixtures (chemicals) in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA establishes the ITC to make recommendations to the Administrator of EPA that certain chemicals be given priority consideration in proposing test rules under section 4(a). Section 4(e) directs the ITC to revise its list of recommendations at least every 6 months as necessary. The ITC may "designate" up to 50 chemicals at any one time for priority consideration by EPA. For such designations, EPA must within 12 months either initiate rulemaking or issue in the **Federal Register** its reasons for not doing so. The ITC's Twenty-fourth Report was received by the Administrator on May 1, 1989 and no additional chemicals were designated or recommended.

II. Written Comments

EPA invites interested persons to submit detailed written comments on the ITC's Twenty-fourth Report. All submissions should bear the identifying docket number (OPTS–41031).

III. Status of List

The Twenty-fourth Report of the ITC notes the removal of one chemical from the list. Diisodecyl phenyl phosphite (CAS No. 25550–98–5) has been removed from the list because EPA has responded to the ITC's recommendation by publishing a Consent Order (54 FR 8112; February 24, 1989). The current list contains two designated chemicals, five chemicals recommended with intent-to-designate, and thirteen recommended chemicals.

Authority: 15 U.S.C. 2603.

Dated: July 19, 1989.

Gary Timm,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89–17579 Filed 7–26–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Backlund-White, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 18, 1989.

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

1. *Backlund-White, Inc.,* Peoria, Illinois; to engage *de novo* in acting as an agent in packaging single family residential real estate loans for sale to MFI. Mortgage Corporation of Milwaukee, Wisconsin, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 21, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89–17534 Filed 7–26–89; 8:45 am]

BILLING CODE 6210–01–M

The Chase Manhattan Corp., New York, New York; Application To Conduct Private Placements of all Types of Securities as Agent or Riskless Principal

The Chase Manhattan Corporation, New York, New York ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to engage through Chase Securities, Inc. ("Company") in the placement, as agent for issuers or as riskless principal, of all types of obligations and securities, registered and nonregistered. Company currently acts as agent or broker for Applicant and certain of its subsidiaries; provides investment advice and securities brokerage services to institutional customers; and underwrites and deals in obligations that state member banks are permitted to underwrite and deal in under the Glass-Steagall Act and, to a limited extent, certain municipal revenue bonds, mortgage-related securities, consumer-receivable-related securities, and commercial paper. In addition, subject to the satisfaction of certain conditions, Company has authority to underwrite and deal in all types of debt.[1]

The Board previously has authorized a bank holding company subsidiary to privately place third-party commercial paper as agent subject to certain limitations. *Bankers Trust New York Corporation,* 73 Federal Reserve Bulletin 138 (1987) ("*Bankers Trust*"); *Bank of Montreal,* 74 Federal Reserve Bulletin 500 (1988). Applicant has proposed to engage in the placement activity subject to the limitations contained in *Bankers Trust* and *Bank of Montreal,* with certain exceptions. In particular, Applicant's proposal differs from that approved in *Bankers Trust* and *Bank of Montreal* in the following principal respects:

- The instruments proposed to be placed include all types of obligations and securities, registered and nonregistered;

[1] *J.P. Morgan & Co., Incorporated, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, and Security Pacific Corporation,* 75 Federal Reserve Bulletin 192 (1989) (the "Securities Order"). Approval of this application would permit Company to include revenues from placement activities as "eligible revenues" for purposes of the Securities Order. Approval would also permit Company to place equity securities without the one-year delay contemplated by the Securities Order.

• The eligible purchasers include individuals with a net worth of over $1 million;

• Company proposes to engage in riskless principal transactions in addition to acting as agent;

• Company's nonbank affiliates may engage in credit enhancement activities with respect to the securities placed; and

• Company's affiliates may provide investment advice with respect to securities placed by Company and may purchase securities placed by Company for their own account.

The Board has not previously determined that the proposed placement activities are permissible under section 4(c)(8) of the Act. Section 4(c)(8) provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearng has determined [by order or regulation] to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors,* 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 Federal Register 806 (1984). Applicant maintains that the proposed placement activities are closely related to banking because banks are currently active participants in the private placement market.

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate or a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Applicant contends that permitting bank holding companies to engage in the proposed activities would result in increased competition and would raise no substantial risks of unsound banking, conflicts of interest, unfair competition, or similar problems.

Applicant contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), which prohibits the affiliation of a member bank, such as Chase Manhattan Bank, N.A., with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Applicant contends that the proposed placement activities do not raise an issue under section 20 in that they do not differ in any material respect from those approved in the Board's *Bankers Trust* Order and *Securities Industry Ass'n* v. *Board of Governors,* 807 F.2d 1052 (D.C. Cir. 1986), *cert. denied,* 107 S.Ct. 3228 (1987).

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the Act.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 28, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, July 21, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17536 Filed 7-26-89; 8:45 am]

BILLING CODE 6210-01-M

Lemens Banking Investments, Ltd.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 21, 1989.

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

1. *Lemens Banking Investments, Ltd.,* Austin, Texas; to become a bank holding company by acquiring 61.8 percent of the voting shares of First Bank & Trust Co. of Bartlett, Bartlett, Texas.

Board of Governors of the Federal Reserve System, July 21, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17535 Filed 7-26-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement 940]

Assistance Program for Chronic Disease Prevention and Control

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for an Assistance Program (grants or cooperative agreements) to (1) continue current assistance awards for planning, developing, integrating, coordinating, or evaluating programs to prevent and control chronic disease(s), (2) assist States in monitoring the prevalence of major behavioral risks associated with the 10 leading causes of premature death in the United States,

and (3) establish new chronic disease prevention and control programs in additional States.

Authority

This program is authorized by section 301(a) (42 U.S.C. 241(a)) and section 317 (k)(3) (42 U.S.C. 247b(k)(3)) of the Public Health Service Act, as amended. Regulations are set forth in 42 CFR 51b Subpart A—Project Grants for Preventive Health Services.

Eligible Applicants

A. Continuation Application

Eligible applicants for the continuation funds are the official health agencies of States (Alabama, California, Maine, Minnesota, Montana, North Carolina, Ohio, Republic of Palau, Rhode Island, Tennessee, Washington, and Washington, DC) presently receiving Chronic Disease Control Program cooperative agreement funds and official health agencies currently receiving the Behavioral Risk Factor Surveillance System (BRFSS) funding that elect not to compete for a new project (Alabama, Arizona, California, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, and Wisconsin).

B. Competing Application

Eligible applicants for the new Chronic Disease Prevention and Control Program awards and the Behavioral Risk Factor Surveillance System (BRFSS) awards are the official public health agencies of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Trust Territories of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands.

All applications from States currently participating in the BRFSS will be considered as competing continuations, even though its BRFSS grant project period does not expire in Fiscal Year 1989, unless they specifically state that they do not want to continue the project beyond the current project period. States with existing cooperative agreements that elect not to compete must submit a continuation application for the next budget period.

Availability of Funds

Approximately $4 million (which includes $2 million for existing chronic disease programs, $1 million for new and existing BRFSS and $1 million new chronic disease) will be available in Fiscal Year 1989 to fund up to 50 BRFSS projects, 12 continuation chronic disease prevention and control programs, and 15 new chronic disease prevention and control programs. These awards are expected to begin on or about August 31, 1989, for a 12-month budget period in a 1 to 5 year project period. Individual BRFSS awards will range form $20,000 to $35,000. Individual awards for new chronic disease prevention and control programs will range from $35,000 to $125,000. Funding estimates may vary and are subject to change. A continuation award within the approved project period will be made on the basis of satisfactory performance and the availablity of funds.

A. Continuation Applications

Recipients that elect to submit non-competing continuation applications should include progress reports describing current status on the recipient activities and any changes planned for the next budget period.

B. Competing Applications

Projects may be either short-term (one year) or long-term (up to five years) and should address specific problems as noted in "Purpose." Non-Federal funding sources should provide greater shares of support in any later budget period.

Applicants must specify in the cover letter the type of award, either grant or cooperative agreement, for which they are applying. CDC will review the applications in accordance with the appropriate criteria.

A project proposed to receive a project grant should be designed to improve the core capacity of the State Health Agency to prevent and control chronic disease, as described in "Purpose." The application should clearly lay out this design. As is described in the PHS Grants Policy Statement, the applicant should not expect substantial programmatic involvement from CDC during the project. The application should be presented in a manner that demonstrates the applicant's ability to conduct the project without substantial involvement from CDC.

Cooperative agreements will include substantial programmatic involvement from CDC during the project as specified under Program Requirements A.2 and B.2. Projects funded through a cooperative agreement that involve collection of information from 10 or more respondents will be subject to review under the Paperwork Reduction Act.

Requests for direct assistance (i.e. "in lieu of cash") for personnel, organizing and conducting the project described in this announcement will be considered.

Purpose

The long term goal is for each State to have the capacity to conduct disease and risk factor surveillance, establish program priorities using quality data and broadly based coalitions, conduct ongoing well-designed interventions, and to build ongoing evaluation into the program's design. As the field of chronic disease prevention and control is better defined and models of successful programs are translated to new areas, this goal can be attained. The purpose of this announcement is to focus on the three areas listed below. Special attention should be given to minority and medically underserved populations because of their disproportionate health status burden.

A. High priority chronic diseases e.g., cancers (lung, breast, or cervical), cardiovascular disease (ischemic heart disease, cerebrovacular disease), and chronic obstructive lung disease.

B. The key modifiable risk factors for high-priority disease, e.g., smoking, hypertension, hyperlipidemia, and sedentary lifestyle.

C. Capacity building for chronic disease programs in such areas as surveillance, intergration of currently fragmented activities, and the building of coalitions/advisory groups to address high-priority conditions or risk factors.

Program Requirements

A. BRFSS Awards

1. Recipient Activities

(a) Formulate a plan for the development, implementation, and conduct of the behavioral risk factor surveillance mechanisms. The plan should:

(1) Provide a timetable for the development and implementation of the surveillance system.

(2) Identify and select appropriate staff for the surveillance program and provision of adequate supervisory personnel who will be responsible for the timeliness and quality control of data collection. In addition, supervisors will train new subordinate staff and edit completed questionnaires.

(3) Provide for acquisition of behavioral risk factor information.

(b) Establish and maintain the behavioral risk factor surveillance system.

(c) Develop a plan for using available risk factor prevalence information and other morbidity and mortality data for improving and refining State program priorities and goals and assessing their attainment.

2. Centers for Disease Control Activities

(a) Collaborate in assessing State geographic, demographic, and economic characteristics and developing an overall surveillance strategy.

(b) Collaborate with each State on the compilation of specified information in a periodic, standardized, and uniform manner on risk factors relating to leading causes of morbidity and mortality.

(c) Collaborate in the training and development of staff implementation and conduct the program activities described herein.

(d) Provide necessary statistical and epidemiological assistance for the compilation of risk factor prevalence information.

(e) Provide technical assistance throughout the program implementation phase with special reference to development of quality control mechanisms appropriate to a State-level surveillance system.

(f) Provide training for State personnel in data analysis and interpretation and develop State capacity for enhancing intervention strategy design and measuring program impact on the basis of statistically valid morbidity data.

(g) Coordinate with other Federal agencies and organizations in both public and private sectors to ensure a coordinated, cooperative program for helping assess the attainment of the Year 2000 Objectives for the Nation.

(h) Coordinate and facilitate the interchange of technical information with recipients.

B. New Chronic Disease Prevention and Control Program Awards

1. Recipient Activities

Due to the diversity of projects that may be approved, activities may vary. For example, a project that will demonstrate an intervention directed at a single chronic disease will have different activities than a project that will utilize an advisory committee to assist the State in developing its own priorities in the control of chronic diseases. However, some general activities, and/or items under A.1.(a)–(c) (above), expected for any applicant include:

(a) Identify sufficient appropriately trained staff to conduct the proposed activities.

(b) Conduct the activities described in the application in a manner that will ensure accomplishment of objectives.

(c) Where appropriate, conduct a strong, scientifically based evaluation designed to determine the effectiveness of the activities.

(d) Conduct a Behavioral Risk Factor Surveillance System approved and funded under this announcement or provide other evidence of the capability of the applicant to perform the tasks required for a BRFSS.

2. Centers for Disease Control Activities

In addition to the financial support provided, and/or those activities noted in A.2. (a)–(h) above, CDC can provide assistance to the State by:

(a) Collaborating in the design and development of methods for data collection and data analysis that can be adapted to future programs. This includes assessing State geographic, demographic, and economic characteristics in developing a strategy for collecting behavioral risk factor survey data.

(b) Collaborating in the design, data analysis, and evaluation of programs.

(c) Providing consultation in describing the epidemiology of the specific disease(s) selected.

(d) Serving in an advisory capacity to coalitions, in community intervention programs, etc.

(e) Providing training, consultation, and guidance in selecting and implementing prevention methodologies.

Funding Priorities

Applications will be reviewed and ranked in the following specific categories: (1) Long-term (up to five years) BRFSS; (2) short-term (one year) chronic disease prevention and control programs, with subdivision for a single disease/risk factor focus or a multiple disease/risk factor focus; (3) long-term (up to five years) chronic disease prevention and control programs, with subdivisions for a single disease/risk factor focus or a multiple disease/risk factor focus.

Other Requirements

New chronic disease prevention and control programs should address one or more of the following goals for the selected disease(s) and/or their related risk factors:

A. To foster and mobilize a coalition of public, private and voluntary agencies committed to a common agenda for the prevention and control of one or more chronic disease(s) or of chronic diseases in general. The coalition should operate at the State and/or local level(s) and should include professional, voluntary, and/or other private sector organizations, as well as State and local public health agencies. The coaliton should assist the State and local health agencies in setting priorities, planning interventions, and in evaluating the effectiveness of chronic disease programs.

B. To monitor the prevalence of major behavioral risks associated with the 10 leading causes of premature death in the United States. The recipient must formulate a plan for the development, implementation, and conduct of behavioral risk factor surveillance. The plan should provide: (1) A development and implementation timetable; (2) identification of personnel; (3) a description of collection methodology; and (4) a plan for continuing ongoing or periodic data collection.

C. To develop chronic disease surveillance programs that utilize comprehensive hospital discharge data and other corroborative secondary data sources such as medical examiner's data, vital statistics data, or environmental exposure data.

D. To conduct chronic disease surveillance of local or State trends in morbidity and mortality to identify and rank public health problems, generate hypotheses relevant to their prevention and control, and evaluate the effectiveness of intervention programs. This can be aimed at a single disease, although multiple data sources should be used.

E. To conduct applied research such as epidemiologic studies, operational research, and laboratory investigations to identify opportunities for preventive actions.

F. To demonstrate the impact and/or evaluate the effectiveness of chronic disease intervention programs in collaboration with other State and local agencies and other appropriate groups. Demonstrations which emphasize an integrated approach to diseases/risk factors and which plan for institutional changes to sustain programs over time will be given priority.

G. To provide education for health professionals to facilitate widespread implementation of effective intervention strategies.

H. To conduct directed information and education programs for the prevention and control of chronic diseases. This should be targeted toward specific high-risk groups, e.g., minorities and specific age groups, and should include evaluation.

I. To develop and test marketing strategies designed to improve utilization of services directed at the prevention and control of chronic diseases or risk factors.

Evaluation Criteria

Applications will be reviewed and evaluated based upon the following criteria:

A. Competing BRFSS

1. Evidence of Capacity or Experience (60%)

(a) Thorough implementation plan that addresses: (40%).

(1) Timely and periodic collection of data.

(2) Designation of interviewing and supervisory staff or designation of a component contractor for interviewing services.

(3) Use of standard questionnaire.

(4) Description of appropriate data-processing activities including keypunching and error corrections.

(5) Adherence to a statistically correct sampling plan.

(6) Adherence to appropriate quality control procedures, including survey administration rules of replacement, refusal conversion, and monitoring or verification of interviews.

(7) Demonstrated ability to reduce errors.

(b) Extent of other experience with timely collection and analysis of behavioral risk factor prevalence information. (10%)

(c) Other evidence of the capability of the applicant to perform the tasks required for a BRFSS. (10%)

2. Workplan and Personnel (40%)

(a) Relevance of the application to the scope and objective provided in this request for applications.

(b) Soundness in describing how the BRFSS will be designed, implemented and managed as evidenced by the:

(1) Descriptions of lead persons/departments.

(2) Definition of action steps, time frames, and persons responsible for completion.

(3) Inclusion of appropriate quality control measures.

(4) Description of specific measurable objectives such that progress can be evaluated based on the completion of the stated processes.

(5) Assurance that interviewing will not be interrupted for any given month.

(6) Processing of interviews in a timely fashion.

(7) Provision of a sound sampling plan.

(8) Clear description of the programmatic uses of the data.

3. Budget. The estimated cost to the Government of the project is reasonable considering the anticipated results. (Not Weighted)

B. Competing New Chronic Disease Prevention and Control Programs

1. Evidence of the applicant's understanding of the problem and the purpose of the cooperative agreement/project grant. (10%)

2. Consistency of the measurable objectives with the stated purpose of the application and the ability to meet the objectives and timetable within the specified period. (25%)

4. The adequacy of the applicant's plan to monitor progress toward meeting the objectives of the project. (20%)

5. Evidence of capacity or experience to carry out a BRFSS. (15%)

(a) Thorough implementation plan that addresses:

(1) Timely and periodic collection of data.

(2) Designation of interviewing and supervisory staff or dedsignation of a competent contractor for interviewing services.

(3) Use of a standard questionnaire.

(4) Description of appropriate data-processing activities including keypunching and error corrections.

(5) Adherence to a statistically correct sampling plan.

(6) Adherence to appropriate quality control procedures including survey administration rules of replacement, refusal conversionl and monitoring or verification of interviews.

(7) Plan for error reduction.

(b) Extent of other timely collection and analysis of behavioral risk factor prevalence information.

(c) Other evidence of the capability of the applicant to perform the tasks required for a BRFSS.

6. Workplan and personnel. (10%)

(a) Relevance of the proposal to the scope and objective provided in this request for applications.

(b) Soundness in describing how the BRFSS will be designed, implemented, and managed as evidenced by the:

(1) Descriptions of lead persons/departments.

(2) Definition of action steps, time frames, and persons responsible for completion.

(3) Inclussion of appropriate quality control measures.

(4) Description of specific measurable objectives such that progress can be evaluated based on the completion of the stated processes.

(5) Assurance that interviewing will not be interrupted for any given month.

(6) Processing of interviews in a timely fashion.

(7) Provision of a sound sampling plan.

(8) Clear delineation of CDC versus State responsibilities.

(9) Clear description of the programmatic uses of the data.

7. The applicant's capability to provide the staff and resources necessary to perform and manage the project. (5%)

8. Appropriateness of requested budget relative to the work proposed. The extent to which the budget is reasonable, adequately justified, and consistent with the intended use of the cooperative agreement/project grant funds. (Not Weighted)

Executive Order 12372 Review

Applications are not subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.283.

Application Submission and Deadline

The original and two copies of the application (PHS 5161–1, Rev. 3/89) must be submitted to Candice Nowicki-Lehnherr, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before July 28, 1989.

A. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. *Late Applications:* Applications that do not meet the criteria in A.1. or A.2 above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, and an application package may be obtained from Nealean Austin, Grants Management Specialist, Grants Management Branch, Centers for Disease Control, Procurement and

Grants Office, 255 East Paces Ferry Road, NW., Room 300, Atlanta, GA 30305, telephone (404) 842–6575 or FTS 236–6575.

Please refer to Announcement Number 940 when requesting information and submitting any application on the Request for Assistance.

Technical assistance may be obtained from Charles Nelson, Division of Chronic Disease Control and Community Intervention, Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control, Atlanta, GA 30333, telephone (404) 639–3178 or FTS 236–3178.

Dated: July 21, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89–17532 Filed 7–26–89; 8:45 am]

BILLING CODE 4160–18–M

Health Resources and Services Administration

Advisory Committees; Meetings in September

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of September 1989.

Name: Departments of Family Medicine Review Committee.

Date and Time: September 11–12, 1989, 8:30 a.m.

Place: Conference Room L and Chesapeake Room, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on September 11, 8:30 a.m.–9:30 a.m.

Closed for Remainder of Meeting.

Purpose: The Departments of Family Medicine Review Committee shall review applications that (1) either assist in meeting the cost of planning, developing and operating; or participating in approved predoctoral training programs in the field of family medicine; and (2) assist in meeting the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, division, or other units) to provide clinical instruction in family medicine.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on September 11, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Acting Administrator, Health Resources and Services Administration pursuant to Pub. L. 92–463.

Anyone requiring information regarding the subject Committees should contact Mrs. Sherry Whipple, Executive Secretary, Departments of Family Medicine Review Committee, Room 4C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6874.

Name: Residency Training Review Committee.

Date and Time: September 19–21, 1989, 8:30 a.m.

Place: Conference Rooms K, L and Chesapeake Room, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on September 19, 8:30 a.m.–9:30 a.m.

Closed for Remainder of Meeting.

Purpose: The Residency Training Review Committee shall review applications that plan, develop and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics and assist residents, through traineeships and fellowships, who are participants in any such program and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on September 19, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Pub. L. 92–463.

Anyone requiring information regarding the subject Committees should contact Mrs. Sherry Whipple, Executive Secretary, Residency Training Review Committee, Room 4C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6874.

Agenda Items are subject to change as priorities dictate.

Date: July 21, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–17560 Filed 7–26–89; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–930–09–4214–12; MTM 15568]

Termination of Classification for Multiple-Use Management; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates the classification which segregated 7,509.29 acres of public land from appropriation under the agricultural land laws and from sales under section 2455 of the Revised Statutes (R.S. 2455); the classification is no longer needed since the Federal Land Policy and Management Act of 1976 provides adequate protection from agricultural land laws and has repealed R.S. 2455. This action will open the lands to the agricultural land laws. These lands have been and remain open to mining, mineral leasing, and all other public land laws.

EFFECTIVE DATE: July 27, 1989.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

1. Pursuant to 43 CFR 2091.7–1(b)(3) and the authority delegated by BLM Manual 1203 (48 FR 85), the Muliple-Use Management Classification dated September 22, 1970, and published in the **Federal Register** September 30, 1970, Volume 35, No. 190, Pages 15247–15248, is terminated. The lands affected are described as follows:

Principal Meridian Montana

T. 37 N., R. 18 E.,
sec. 25, NE¼.
T. 36 N., R. 20 E.,
sec. 13, W½;
sec. 23, SW¼;
sec. 25, E½ and SW¼;
sec. 26, SE¼.
T. 33 N., R. 21 E.,
sec. 24, W½
T. 37 N., R. 21 E.,
sec. 24, W½.
T. 37 N., R. 21 E.,
sec. 29, N½N½, SW¼NE¼, and SE¼NW¼;
sec. 30, N½SE¼.
T. 32 N., R. 24 E.,
sec. 13, all;

sec. 14, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
sec. 23, NE¼;
sec. 26, N½.
T 32 N., R. 25 E.,
sec. 3, SW¼NW¼;
sec. 5, Lots 3 and 4, SW¼NW¼,W½SW¼, and SE¼SW¼;
sec. 6, Lots 2. and 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
sec. 7, Lots 1, 2, 3, and 4, SW¼NE¼, E½NW¼, E½SW¼, and NW¼SE¼;
sec. 8, S½NE¼, W½, and SE¼;
sec. 9, W½, SW¼, and SE¼SW¼;
sec. 11, NE¼;
sec. 12, W½;
sec. 17, N½NE¼, NE¼NW¼, S½N½, and S½;
sec. 18, Lots 1, 2, 3, and 4, SE¼NE¼, W½NE¼, E½NW¼, E½SW¼, and SE¼;
sec. 19, Lots 1, 2, and 3, NE¼, E½NW¼, and N½N½SE¼;
sec. 20, N½ and N½SW¼.

The area described aggregates 7,509.29 acres in Blaine County.

2. At 9:00 a.m. on August 28, 1989 the lands will be opened to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 9:00 a.m. on August 28, 1989 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

July 20, 1989.

[FR Doc. 89-17586 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-DN-M

[CA-067-09-4352.12]

Camping Closure Order for a Portion of Lands Within and Adjacent to the East Mesa Area of Critical Environmental Concern (CDCA ACEC #70), Imperial County, CA

AGENCY: Bureau of Land Management Interior.

ACTION: Camping closure.

SUMMARY: The purpose of this closure to overnight camping is to minimize environmental impacts resulting from recreational usage of lands within and adjacent to the Southern East Mesa ACEC. This closure will include the following portion of lands known as "East Mesa", west of the Old Coachella Canal:

T. 17 S., R. 20 E., SBM
Sec. 30 (west of canal)
T. 17 S., R. 19 E., SBM
Lands west of the canal in the following sections:
Secs. 10, 11, 13, 14, 15
Secs. 22, 23, 24, 25, 26, 27
Secs. 34, 35

These lands are located along BLM Routes A-451 and A-453 which connects Gordons Well with the Old Coachella Canal, four miles north of Gordon's Well. Camping in this area will be restricted to the existing overflow campsite west of the canal in section 31, T. 17 S., R. 20 E., SBM. Posting of approved routes of travel will be accomplished in this area. Enforcement of this closure and limiting travel to approved routes will be intensified.

Background

Since 1978, the area north and west of Gordon's Well has sustained a dramatic increase in overflow camping usage from the adjacent sand dunes recreation area. Closure of the lands to camping will eliminate intensive riding activities normally found in and around campsites, which negatively impacts Flat-Tailed Horned Lizard habitat. Flat-Tailed Horned Lizard habitat which is closed to camping is expected to recover from impacts resulting from the intensive use. This camping closure is as identified in the approved Imperial Sand Dunes Recreation Area Management Plan and Environmental Assessment, Chapter 4, pages EA-51 and 52. The lands closed to camping will remain open to vehicle use on approved routes as currently exists. The "Dune Buggy Flats" area east of the Coachella Canal will also remain open to camping as will the lands west of the canal, in Section 31 between Gordon's Well Interchange and Dune Buggy Flats.

EFFECTIVE DATE: This Closure will be effective September 15, 1989 and will remain in effect until rescinded or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Russell L. Andris-Olech, B.L.M. Ranger, Bureau of Land Management, El Centro Resource Area, 333 South Waterman, El Centro, California 92243, (619) 352-5842.

SUPPLEMENTARY INFORMATION: The authority for Closure orders is provided at 43 CFR 8364.1. Violations of this closure are punishable by a fine not to exceed $1,000 and or/imprisonment not to exceed 12 months.

Date: July 19, 1989.

H.W. Riecken,

Acting District Manager.

[FR Doc. 89-17585 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-40-M

Cheyenne, WY; Invitation for Coal Exploration License

[WY-920-08-4120-11; WYW117027]

AGENCY: Bureau of Land Management.

ACTION: Invitation for Coal Exploration License.

SUMMARY: Thunder Basin Coal Company hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning federally owned coal underlying the following described land in Campbell County, Wyoming:

T. 43 N., R. 70W., 6th P.M., WY
Sec. 7: Lots 7-10, 13-19;
Sec. 18: Lots 5-7, 10-15, 18-20;
Sec. 19: Lots 1-20;
Sec. 29: Lots 3-6, 9-16;
Sec. 30: Lots 5-20;
Sec. 31: Lots 5-12;
Sec. 32: Lots 1-8;
Sec. 33: Lots 3-6;
T. 43 N., R 71 W., 6th P.M., WY
Sec. 1: Lots 16-18;
Sec. 12: Lots 1-16;
Sec. 13: Lots 2-7, 10-15;
Sec. 24: Lots 1-16;
Sec. 25: Lots 1-16.
Containing 6,084.30 acres

All of the coal in the above land consists of unleased Federal coal, within the Power River Basin known coal leasing area. The purpose of the exploration is to determine coal quality parameters.

ADDRESSES: A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under serial number WYW117027): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82003; and Bureau of Land Management, 1701 East 'E' Street, Casper, Wyoming 82601.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in a newspaper once each week for two consecutive weeks beginning the week of July 17, 1989, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and to Thunder Basin Coal Company no later than 30 days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Mr. Marvin Senne, Thunder Basin Coal Company, P.O. Box 406, Wright, Wyoming 82732-0406 and the Bureau of Land Management, Wyoming State Office, Branch of Mining Law and Solid Minerals, P.O. Box 1828, Cheyenne, Wyoming 82003-1828.

The foregoing is published in the Federal Register pursuant to Title 43 Code of Federal Regulations, § 3410.2–1(c)(1).

F. William Eikenberry,

State Director.

[FR Doc. 89–17500 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–22–M

[UT–040–09–4322–02]

Cedar City District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 992–463 that a meeting and field tour of the Cedar City District Grazing Advisory Board will be held on September 7, 1989. The meeting will begin at 9:00 a.m. in the Cannonville City Park, Cannonville, Utah.

A meeting will be held at the City Park were each Resource Area will give a brief report on current drought conditions in their Resource Area and actions they proposed to take to lessen adverse grazing and drought effects on the vegetation. Other agenda items will include land use planning, predator control, and maintenance at field camps. Following the meeting, a field trip will be made to selected allotments to observe drought conditions, recently completed and proposed range treatment projects, a Utah State Park fencing proposal, and range projects where vandalism to the projects has recently occurred. Those planning to attend the field trip should provide their own lunch and transporation.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:00 a.m.

Anyone wising to make an oral statement must notify the District Manager, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, UT 84720, phone (801) 586–2401 by September 1, 1989. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary 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 30 days following the meeting.

Gordon R. Staker,

District Manager.

[FR Doc. 89–17542 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ040–09–4320–02]

Safford District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a meeting of the Safford District Grazing Advisory Board will be held.

DATE: Friday, August 25, 1989 at 10:00 a.m.

ADDRESS: East Aravaipa, Nature Conservancy Guest House.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92–463. The agenda for the meeting will include:

1. Discussion of South Rim AMP
2. Overview of Nature Conservancy Interests in Aravaipa and Muleshoe areas.
3. Prescribed fire plans for Aravaipa area.
4. Wilderness legislation.
5. Predator Control procedures.
6. BLM Management update.
7. Business from the Floor.

The meeting is open to the public. Board members will meet at the BLM Office, 425 E. 4th St., Safford, AZ 85546 at 9:00 a.m. From there they will depart via BLM, provided vehicles for East Aravaipa. Members of the public may accompany the group and attend the Meeting, but must provide their own transportation. It is expected the Board members will return to Safford about 4:00 p.m.

Interested persons may make oral statements to the Board. A written copy of the oral statement may be required to be provided at the conclusion of the presentation. Written statements may also be filled for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 425 E. 4th St., Safford, AZ 85546, by 4:15 p.m., Thursday, August 24, 1989.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: July 14, 1989.

Ray A. Brady,

District Manager.

[FR Doc. 89–17583 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–32–M

[WY–030–09–4351–02]

Meeting of the Rawlins District Advisory Council

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting of the Rawlins District Advisory Council.

SUMMARY: Notice is hereby given of a meeting of the Rawlins District Advisory Council, in accordance with Pub. L. 94–597.

DATE: August 16, 1989.

ADDRESS: Bureau of Land Management, 1300 North Third Street, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Grant Petersen, Public Affairs Specialist, or Richard Bastin, District Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, WY 82301, (307) 324–7171.

SUPPLEMENTARY INFORMATION: The meeting will be held at 9:00 a.m. at the BLM District Office, 1300 North Third Street, Rawlins, Wyoming. A public comment period will be held at 9:15 a.m. The agenda items include: Welcome (9:00 a.m.); Public Comment Period (9:15 a.m.); Field Trip Tour of Adobe Town Wilderness Study Area, discussion of Adobe Town WSA and multiple use (10:30 a.m.); and wrap-up and resolutions (4:00 p.m.).

The meeting is open to the public. Anyone interested in attending the meeting and/or making an oral statement should notify the District Manager by August 11, 1989. Written statements also may be filed before the meeting for the Council's consideration.

Summary minutes will be available for review within 30 days after the meeting at the Rawlins District Office. Copies of the minutes may be obtained for the cost of duplication.

Dated: July 17, 1989.

Richard Bastin,

District Manager.

[FR Doc. 89–17543 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–22–M

[AZ 020–41–5410–10–ZAGK; AZA–23870]

Mineral Interest, Applications; Arizona

ACTION: Notice of receipt of conveyance of mineral interest application.

Notice is hereby given that pursuant to Section 209 of the Act of October 21, 1976, 90 Stat. 2757, Showlow Pines Mineral Rights Acquisition Limited Partnership has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 11 N., R. 24 E.,
sec. 8, S½;
sec. 10, all;
sec. 12, all;
sec. 14, all;
sec. 22, all.
Containing 2,880 acres

Additional information concerning this application may be obtained from the Area Manager, Phoenix Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, April 24, 1989, whichever occurs first.

Henri R. Bisson,

District Manager.

Date: July 20, 1989.

[FR Doc. 89-17584 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-32-M

[NM-037-09-4320-04]

White Sands Resource Area Name Change

AGENCY: Bureau of Land Management, Interior.

ACTION: Name change of White Sands Resource Area to Caballo Resource Area.

SUMMARY: The use of the name White Sands Resource Area is confusing to the public and agencies alike because of the proximity of the White Sands Missile Range (U.S. Army) and White Sands National Monument (National Park Service). The name "Caballo" was selected because it is one of the best known geographic features (Caballo Mountains) within the Resource Area. It better identifies with New Mexico and the public lands. The public, Congressional Offices, U.S. Army and Las Cruces District Grazing Advisory Board were involved in the proposed change. No objections were voiced.

EFFECTIVE DATE: This change is effective July 27, 1989.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, Las Cruces District, Bureau of Land Management, 1800 Marquess Street, Las Cruces, NM 88005 or at (505) 525-8226.

Robert R. Calkins,

Associate District Manager.

July 19, 1989.

[FR Doc. 89-17547 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-FB-M

[CA-023-09-4050-90; CA20656]

Realty Action, Classification of Public Lands in Plumas, CA

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of Realty Action; classification of Public Lands under the Recreation and Public Purposes Act, in Plumas County, CA. (CACA23622)

SUMMARY: The following described public lands are hereby classified as suitable for sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*):

T. 22N., R. 14E., M.D.M., California
Section 23; SE¼ SE¼ SW¼ SW¼, SW¼ SW¼ SE¼ SW¼
Section 26; NE¼ NE¼ NW¼ NW¼, NW¼ NW¼ NE¼ NW¼.
Total: 10 acres

These lands are proposed to be sold to the Portola Cemetery District for the operation of a cemetery. The sale shall be subject to the standard terms and conditions of a Recreation and Public Purposes Act patent.

All minerals will be reserved by the United States together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

The above described public lands are hereby segregated from all other forms of disposal, entry or appropriation under the public land laws, including locations under the mining laws, but not to leasing under the mineral leasing laws. Any mineral leases issued would contain a no surface occupancy clause. The segregative effect of this notice shall automatically expire 18 months after publication of this notice if no application is filed or if no patent is issued. If a patent is issued, the segregation will remain in effect unless this notice is amended or reviewed.

Comments: For a period of 45 days after publication of this notice in the **Federal Register**, comments may be sent to the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, CA 96130. Comments will be evaluated by the California State Director of the Bureau of Land Management, who may affirm, vacate or modify this classification.

Information: For additional information on this matter call or write the Eagle Lake Area Manager, Bureau of Land Management, 2545 Riverside Drive, Susanville, CA 96130. Telephone (916) 257-0456.

Richard H. Stark, Jr.,

Eagle Lake Area Manger.

[FR Doc. 89-17544 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-40-M

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Casefile CA 182 and CA 24921; California

The following public lands in Shasta County, California have been examined and found suitable for classification for lease and/or conveyance to the Straight Arrow Bowhunters under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Straight Arrow Bowhunters propose to use the land for an archery range.

Mount Diablo Meridian

T. 31 N., R. 5 W.,
Section 7: Lots 5, 6, 11, 12, 30.
Containing 57.00 acres, more or less.

In addition, the following contiguous public lands in Shasta County, California, which have been leased under the Recreation and Public Purposes Act by Straight Arrow Bowhunters for 20 years, have been examined and found suitable for classification for conveyance.

Mount Diablo Meridian

T. 31 N., R. 5 W.,
Section 7: Lot 29.
Containing 19.55 acres, more or less.

The lands are not needed for Federal purposes. Lease and/or conveyance is consistent with current Bureau of Land Management land use planning and would be in the public interest.

The patent(s), when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. A 44 LD 513 road reserved to the United States, known as Delano Drive.

5. A right-of-way granted to Pacific Gas and Electric Company for a powerline.

Detailed information concerning this action is available for review at the Office of Bureau of Land Management, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed conveyance or classification of the lands to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Mark T. Morse,

Area Manager.

[FR Doc. 89-17545 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-09-4212-18]

Realty Action; Sale of Public Lands in Clark County, NV

Pub. L. 96-586, enacted December 23, 1980, authorizes and directs the sale of certain public lands in and around Las Vegas, Nevada. The following described lands have been determined to be suitable for sale utilizing competitive procedures, at not less than fair market value. The lands will not be offered for sale until 60 days after publication of this notice in the Federal Register.

Parcel	Serial No.1	Legal description	Acres
T. 20 S., R. 60 E., Section 5			
89-01	N-51094	Lots 9, 10, 11, SW¼NW¼NW¼, W½SE¼NW¼NW¼, N½NW¼SW¼NW¼, NW¼NE¼SW¼NW¼.	57.98
89-02	N-51095	W½NW¼SE¼NW¼	5.00
89-03	N-51096	NW¼NE¼SE¼NW¼	2.50
89-04	N-51097	SW¼NE¼SE¼NW¼	2.50
89-05	N-51098	NE¼SW¼SE¼NW¼	2.50
89-06	N-51099	NW¼SW¼SE¼NW¼	2.50
89-07	N-51100	NE¼SE¼SW¼NW¼	2.50
89-08	N-51101	NW¼SE¼SW¼NW¼	2.50
89-09	N-51102	NW¼SW¼SW¼NW¼	2.50
89-10	N-51103	SW¼SW¼SW¼NW¼	2.50
89-11	N-51104	SE¼SW¼SW¼NW¼	2.50
89-12	N-51105	SW¼SE¼SW¼NW¼	2.50
89-13	N-51106	SE¼SE¼SE¼NW¼	2.50
89-14	N-51107	NE¼NE¼SW¼SW¼	2.50
89-15	N-51108	NE¼NW¼SE¼SW¼	2.50
89-16	N-51109	NW¼NE¼SE¼SW¼	2.50
89-17	N-51110	SE¼NE¼SE¼SW¼	2.50
89-18	N-51111	SE¼NW¼SE¼SW¼	2.50
89-19	N-51112	SE¼NE¼SW¼SW¼	2.50
89-20	N-51113	NE¼SE¼SW¼SW¼	2.50
89-21	N-51114	SW¼NE¼SW¼SW¼	2.50
89-22	N-51115	S½NW¼SW¼SW¼, N½SW¼SW¼SW¼	10.00
89-23	N-51116	SW¼SE¼SW¼SW¼	2.50
89-24	N-51117	SW¼SW¼SE¼SW¼	2.50
89-25	N-51118	E½SW¼SE¼SW¼, SE¼SE¼SW¼	15.00
89-26	N-51119	NW¼SW¼SW¼SE¼	2.50
89-27	N-51120	NE¼SW¼SW¼SE¼	2.50
89-28	N-51121	SW¼NW¼SW¼SE¼	2.50
89-29	N-51122	NE¼NW¼SW¼SE¼	2.50
89-30	N-51123	NW¼NE¼SW¼SE¼	2.50
89-31	N-51124	SE¼SW¼NW¼SE¼	2.50
89-32	N-51125	NE¼SW¼NW¼SE¼	2.50
89-33	N-51126	W½NW¼NW¼SE¼	5.00
89-34	N-51127	NE¼NW¼NW¼SE¼	2.50
89-35	N-51128	NW¼NE¼NW¼SE¼	2.50
89-36	N-51129	SE¼SW¼SW¼NE¼	2.50
89-37	N-51130	Lots 5, 6, E½SW¼NW¼NE¼, SE¼NW¼NE¼, NE¼SW¼NE¼, E½NW¼SW¼NE¼.	45.13
89-38	N-51131	Lot 1	40.13
89-39	N-51132	NW¼NW¼SE¼NE¼	2.50
89-40	N-51133	NW¼NE¼SE¼NE¼	2.50
89-41	N-51134	NE¼NE¼SE¼NE¼	2.50
89-42	N-51135	SE¼NE¼SE¼NE¼	2.50
89-43	N-51136	SE¼NW¼SE¼NE¼	2.50
89-44	N-51137	SW¼NW¼SE¼NE¼	2.50
89-45	N-51138	NE¼NW¼NE¼SE¼	2.50
89-46	N-51139	SE¼NW¼NE¼SE¼	2.50
89-47	N-51140	SW¼NE¼NE¼SE¼	2.50
89-48	N-51141	SE¼NE¼NE¼SE¼	2.50
89-49	N-51142	NW¼SE¼NE¼SE¼	2.50
89-50	N-51143	SE¼SW¼NE¼SE¼	2.50
89-51	N-51144	SE¼SE¼NE¼SE¼	2.50
89-52	N-51145	NE¼NE¼SE¼SE¼	2.50
89-53	N-51146	SE¼NE¼SE¼SE¼	2.50

Parcel	Serial No.1	Legal description	Acres
89-54	N-51147	NW¼NE¼SE¼SE¼	2.50
89-55	N-51148	NE¼NW¼SE¼SE¼	2.50
T. 20 S., R. 60 E., Section 8			
89-56	N-51149	NW¼NW¼NW¼NW¼	2.50
89-57	N-51150	NE¼NE¼NW¼NW¼	2.50
89-58	N-51151	NW¼NW¼NE¼NW¼	2.50
89-59	N-51152	NE¼NW¼NE¼NW¼	2.50
89-60	N-51153	SW¼NE¼NE¼NW¼	2.50
89-61	N-51154	E½E½NE¼NW¼, SW¼NE¼NW¼NE¼, W½NW¼NW¼NE¼, SE¼NW¼NW¼NE¼, SW¼NW¼NE¼, W½SE¼NW¼NE¼.	35.00
89-62	N-51155	NW¼NE¼NW¼NE¼	2.50
89-63	N-51156	SE¼NE¼NW¼NE¼	2.50
89-64	N-51157	NW¼NW¼NE¼NE¼	2.50
89-65	N-51158	NE¼NE¼NE¼, E½NW¼NE¼NE¼, NE¼SW¼NE¼NE¼, N½SE¼NE¼NE¼.	22.50
89-66	N-51159	SE¼SW¼NE¼NE¼	2.50
89-67	N-51160	NW¼NE¼SE¼NE¼	2.50
89-68	N-51161	NW¼NW¼SE¼NE¼	2.50
89-69	N-51162	NE¼NE¼SW¼NE¼	2.50
89-70	N-51163	NW¼NE¼SW¼NE¼	2.50
89-71	N-51164	NE¼NW¼SW¼NE¼	2.50
89-72	N-51165	NE¼NE¼SE¼NW¼	2.50
89-73	N-51166	SW¼SE¼NE¼NW¼	2.50
89-74	N-51167	NW¼NE¼SE¼NW¼	2.50
89-75	N-51168	NE¼NW¼SE¼NW¼	2.50
89-76	N-51169	SE¼SE¼NW¼NW¼	2.50
89-77	N-51170	NE¼NE¼SW¼NW¼	2.50
89-78	N-51171	NW¼NE¼SW¼NW¼	2.50
89-79	N-51172	NE¼NW¼SW¼NW¼	2.50
89-80	N-51173	SE¼SW¼NW¼NW¼	2.50
89-81	N-51174	SE¼NW¼NW¼NW¼	2.50
89-82	N-51175	SW¼NW¼NW¼NW¼	2.50
89-83	N-51176	NW¼SW¼NW¼NW¼	2.50
89-84	N-51177	SW¼SW¼NW¼NW¼	2.50
89-85	N-51178	NW¼NW¼SW¼NW¼	2.50
89-86	N-51179	S½NW¼SE¼NW¼, SW¼SE¼NW¼, S½NE¼SW¼NW¼, SE¼NW¼SW¼NW¼, S½SW¼NW¼.	42.50
89-87	N-51180	NE¼SE¼SE¼NW¼	2.50
89-88	N-51181	SW¼NW¼SW¼NE¼	2.50
89-89	N-51182	SE¼NW¼SW¼NE¼	2.50
89-90	N-51183	SE¼NW¼SE¼NE¼	2.50
89-91	N-51184	SE¼NE¼SE¼NE¼	2.50
89-92	N-51185	NE¼SE¼SE¼NE¼	2.50
89-93	N-51186	NE¼NE¼NE¼SE¼	2.50
89-94	N-51187	SW¼SE¼SE¼NE¼	2.50
89-95	N-51188	SE¼SW¼SE¼NE¼	2.50
89-96	N-51189	SW¼SW¼SE¼NE¼	2.50
89-97	N-51190	SE¼SE¼SW¼NE¼	2.50
89-98	N-51191	NE¼SE¼SW¼NE¼	2.50
89-99	N-51192	NW¼SE¼SW¼NE¼	2.50
89-100	N-51193	SW¼SE¼SW¼NE¼	2.50
89-101	N-51194	NE¼SW¼SW¼NE¼	2.50
89-102	N-51195	SW¼SW¼SW¼NE¼	2.50
89-103	N-51196	NW¼NE¼NE¼SW¼	2.50
89-104	N-51197	SE¼NE¼NE¼SW¼	2.50
89-105	N-51198	SW¼NE¼NE¼SW¼	2.50
89-106	N-51199	W½NW¼NE¼SW¼, NE¼NW¼SW¼	15.00
89-107	N-51200	W½NW¼SW¼	20.00
89-108	N-51201	NE¼SE¼NW¼SW¼	2.50
89-109	N-51202	NW¼SW¼NE¼SW¼	2.50
89-110	N-51203	NE¼SW¼NE¼SW¼	2.50
89-111	N-51204	NW¼SE¼NE¼SW¼	2.50
89-112	N-51205	SE¼SE¼NE¼SW¼	2.50
89-113	N-51206	SE¼SW¼NE¼SW¼	2.50
89-114	N-51207	SW¼SW¼NE¼SW¼	2.50
T. 20 S., R. 60 E., Section 10			
89-120	N-33566	SW¼NW¼NW¼NW¼	2.50
89-123	N-33569	SE¼NE¼SW¼NW¼	2.50
89-124	N-33572	NE¼NE¼NW¼SW¼	2.50
89-125	N-33573	SW¼NW¼NW¼SW¼	2.50
89-126	N-33574	NW¼SE¼NW¼SW¼	2.50
T. 21 S., R. 60 E., Section 21			
89-130	N-51217	E½NE¼SE¼NW¼	5.00
T. 21 S., R. 61 E., Section 30			
89-131	N-51218	W½NW¼NE¼NE¼	5.00
89-132	N-51219	NW¼SE¼NW¼NE¼	2.50
T. 21 S., R. 61 E., Section 36			
89-133	N-36770	E½SE¼SW¼NE¼NW¼	1.25

These parcels, situated in the Las Vegas Valley, have potential for urban-suburban, commercial and industrial development. Transfer of this land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. All or portions of the subject land herein described will be offered for sale initially by sealed bid in Las Vegas on November 15, 1989. The parcels not sold through the initial sale may be offered using procedures to be outlined at a later date by the Bureau of Land Management's Las Vegas District Office.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. A bid will constitute an application for conveyance of those mineral interests offered on the parcel. The declared high bidder will be required to deposit one-fifth of the full bid price and a $50.00 nonreturnable filing fee for conveyance of the mineral interests immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the lands from market, or reoffer them at a later date.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservation for streets, roads, flood control and public utilities, both existing and proposed, in accordance with Clark County and the City of Las Vegas plans.

3. All land that is sold will be subject to applicable Clark County and City of Las Vegas ordinances.

4. Any development and proposed development of a parcel affected by the 100-year flood plain shall be subject to review and regulations by Clark County Department of Public Works, Flood Control Division for flood control and storm water management.

5. The United States shall reserve to itself all known mineral deposits on all parcels being offered; together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the Las Vegas District Office, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

6. The United States reserves to itself a right-of-way for ditches and canals, Act of August 30, 1890, 43 U.S.C. 945.

Adjoining landowners have no preference rights. Only U.S. citizens 18 years or older and legally chartered U.S. Corporations are eligible to purchase these lands. Specific information regarding the time and site of the bid opening and sale procedures will be published in a sale brochure and made available to the public prior to the sale. The Bureau of Land Management may accept or reject any and all offers, or withdraw any lands or interest in land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of the publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date: July 13, 1989.

Gary Ryan,

Acting (District Manager, Las Vegas, NV).

[FR Doc. 89-17546 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-HC-M

[CO-942-09-4520-12]

Colorado; Filing of Plats of Survey

July 13, 1989.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., July 13, 1989.

The plat representing the dependent resurvey of the east boundary, T. 37 N., R. 2 E., New Mexico Principal Meridian, Colorado, Group No. 812, was accepted June 27, 1989.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines, and the subdivision of sections 7 and 18, T. 35 N., R. 2 W., New Mexico Principal Meridian, Colorado, Group No. 829, was accepted June 22, 1989.

These surveys were executed to meet certain administrative needs of the Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 89-17587 Filed 7-26-89; 8:45 am]

BILLING CODE 4310-JB-M

[MT-930-09-4214-11; MTM 27716]

Proposed Continuation of Public Land Order No. 5466; Montana

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice.

SUMMARY: The Forest Service, Department of Agriculture, proposes that the withdrawal of 240 acres of National Forest System lands for Capitol Rock Scenic Landmark continue for an additional 20 years. The land would remain closed to surface entry and mining, but has been and would remain open to mineral leasing.

EFFECTIVE DATE: Comments should be received on or before October 25, 1989.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

The U.S. Forest Service proposes that the existing withdrawal of National Forest System lands made by PLO 5466 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Principal Meridian, Montana

Custer National Forest

T. 3 S., R. 62 E.,
sec. 16, SW¼SW¼NW¼, W½SW¼;
sec. 17, SE¼SE¼NE¼, E½E½SE¼;
sec. 20, E½NE¼NE¼;
sec. 21, N½NW¼.

The area described contains 240.00 acres in Carter Countty.

The withdrawal is essential for protection of the Capitol Rock Scenic Landmark. The withdrawal closed the land to surface entry and mining, but not to mineral leasing. No change is proposed in the purposes of segregative effort of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in

connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resource, at the address listed above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so how long. The final determination on the continuation of the withdrawl will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

July 20, 1989.

[FR Doc. 89—17588 Filed 7–26–89; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-09-4214-11; NM 11643]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that a withdrawal for the Tesuque Radio and Electronic Site and Jacks Creek Campground continue for an additional 20 years. The land has been and will remain closed to mining and has been and will remain open to mineral leasing.

DATE: Comments should be received by October 25, 1989.

ADDRESS: Comments should be sent to the New Mexico State Director, BLM, P.O. Box 1449, Santa Fe, New Mexico 87504–1449.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504, 505–988–6071.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture, Forest Service, proposes that the existing land withdrawal made by Public Land Order No. 4994 be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2571, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

Santa Fe National Forest

Tesuque Radio and Electronic Site

T. 18 N., R. 11 E.,
Sec. 16, NW¼NE¼NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼, W½SE¼NW¼NE¼, W½SW¼NE¼, NW¼, N½N½N½SW¼, and NW¼NW¼SE¼.

Jacks Creek Campground

T. 19 N., R. 12 E.,
Sec. 26, S½SW¼SW¼NW¼, SW¼SE¼SW¼NW¼, and W½NE¼SW¼, excluding that portion (11.25 acres) within the Pecos Wilderness, P.L. 96–550;
Sec. 27, E½E½SW¼NE¼ and E½E½NW¼SE¼.

The areas described aggregate 291.25 acres in Santa Fe and San Miguel Counties.

The withdrawal is essential to accommodate the electronic site and ski area improvements, to protect the substantial electronic site improvements on the Tesuque Radio and Electronic Site, and to protect the substantial capital improvements of Jacks Creek Campground. The withdrawal closed the described land to mining but not to mineral leasing. Under this action, the land will remain closed to mining and will remain open to mineral leasing. No change in the use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources.

A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: July 19, 1989.

Monte G. Jordan,

Associate State Director.

[FR Doc. 89–17548 Filed 7–26–89; 8:45 am]

BILLING CODE 4310-FB-M

[OR-943-09-4214-10; GP9-290; ORE-017370]

Termination of Proposed Withdrawal and Reservation of Lands; Oregon; Correction

The land description in FR Doc. 82–22021, published on pages 35352 and 35353, in the issue of Friday, August 13, 1982, are hereby corrected as follows:

On page 35352 in T. 28 S., R. 44 E., Sec. 18, as reads "SE¼SE¼" and is corrected to read "SW¼SE¼."

On page 35353, a portion of the land description was omitted and is hereby corrected to include the "E½SW¼ and W½SE¼" in Sec. 6, T. 29 S., R. 44 E.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

Dated: July 18, 1989.

[FR Doc. 89–17549 Filed 7–26–89; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR Parts 17 and 18).

Applicant—Name: Charles Monnett. File No. PRT 716436.

Address: Alaska Pacific University, P.O. Box 1846, Cordova, AK.

Type of Permit: Scientific Research.

Name and Number of Animals: 260 Alaskan sea otters (*Enhydra lutris lutris*).

Summary of Activity to be Authorized. The applicant proposes to amend his current permit to increase the number of sea otters he is authorized to capture. Most will be drugged, tagged, weighed and have one premolar extracted. Twenty-five (25) males, eighty-five (85) females and up to sixty (60) pups will be surgically implanted with radio-transmitters for tracking.

Source of Marine Mammals for Research: Prince William Sound, and the Gulf of Alaska, AK.

Period of Activity: July 1989-December 1990.

Concurrent with the publication of this notice in the **Federal Register**, The Office of Management Authority is forwarding copies of this application to

the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, Office of Management Authority (OMA), P.O. Box 3507, Arlington, VA 22203–3507, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:15 pm) at 4401 N. Fairfax Dr., Room 400, Arlington, VA.

Dated: July 24, 1989.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 89–17559 Filed 7–26–89; 8:45 am]

BILLING CODE 4310-AN-M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–738131

Applicant: Horst Schmudde, Bellicosa Game Farm, Colts Neck, NJ

The applicant requests a permit to purchase in interstate commerce four male captive-born Hawaiian (=nene) geese (*Nesochen* (=*Branta*) *sandvicensis*) from Charles Nugent, Kimbolton, OH, for the purpose of propagation.

PRT–738977

Applicant: Melvin Ray Sexton, Payson, AR

The applicant requests a permit to import two female captive-born Cabot's tragopan pheasants (*Tragopan caboti*) and two male and two female captive-born Bythe's tragopan pheasants (*Tragopan blythii*) from Mr. Glenn Howe, Aylmer, Ontario, Canada, to obtain new bloodlines for the purpose of enhancement of propagation.

PRT–738132

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import one female captive born Malayan tapir (*Tapirus indicus*) from Singapore Zoological Gardens, Singapore, to add new bloodlines to the North American captive population for purposes of enhancement of propagation and for exhibition.

PRT–738973

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import one female captive born African wild ass (*Equus asinus* (=*africanus*) from Basle Zoo, Basle, Switzerland, for enhancement of propagation and display. The female will be paired with a male now at the San Diego Wild Animal Park, Escondido, CA.

PRT–725541

Applicant: Max-Planck-Institute for Biochemistry, Munich, Federal Republic of Germany

The applicant requests a permit to take and export 30 specimens each of *Gambusia gaigei, G. heterochir* and *G. Nobilis* for propagation and research. At least the first two species of fish may be obtained from captive populations.

PRT–739923

Applicant: Hawaii Volcanoes National Park, Hawaii National Park, HI

The applicant requests a permit to conduct the following activities with Hawksbill sea turtles (*Eretmochelys imbricata*) for research and management purposes:

(1) Capture hawksbills in the ocean and hold them on shore for short periods of time to attach Iconel identification tags and record standard body measurements;

(2) Restrain adult females on nesting beach for short periods to attach tags and record standard body measurements; and

(3) Excavate nests to measure egg fertility and productivity and rescue trapped live hatchlings.

PRT–695313

Applicant: Harry Clark Craig, Bartow, FL

The applicant requests a permit to re-export and re-import one female Asian elephant (*Elephas maximus*) as part of an elephant act, during which conservation education material will be provided to the public.

PRT–739929

Applicant: Michael Barrett, Fillmore, CA

The applicant requests a permit to export three male and two female captive-hatched Hawaiian (=nene) geese (*Nesochen* (=*Branta*) *sandvicensis*) and re-export one male and one female captive-hatched Cabot's tragopan (*Tragopan caboti*) for the purpose of propagation at his new address in Canada.

PRT–740155

Applicant: Roberta and Kenneth Howell, Muldrow, OK

The applicant requests a permit to purchase one pair of captive hatched nene geese (*Nesochen* (=*Branta*) *sandvicensis*) from Mr. John Newman, Frankston, Texas, for the purpose of captive propagation.

PRT–739967

Applicant: Santa Ana Zoo, Santa Ana, CA

The applicant requests a permit to export three male ring-tailed lemurs (*Lemur catta*) to the Guadalajara Zoo, Jalisco, Mexico, for purposes of captive propagation. The lemurs were born at the Santa Ana Zoo.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: July 24, 1989.

R.K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–17598 Filed 7–26–89; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Notice of the availability of environmental documents prepared for Outer Continental Shelf (OCS) minerals exploration proposals on the Alaska OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant

Impact (FONSI's) prepared by the MMS for oil and gas exploration activities proposed on the Alaska OCS. This listing includes all proposals for which FONSI's were prepared by the Alaska OCS in the 3-month period proceding this Notice.

Proposal: Amoco proposes to complete the drilling of an exploratory well at the Belcher Prospect (OCS–Y 0917) during the 1989 open-water period in the eastern Alaskan Beaufort Sea. Amoco suspended operations at this site on October 17, 1988. Exploratory operations at the Belcher prospect in 1989 will be identical to those conducted in 1988. In particular, the same drilling unit, the Kulluk (a mobile offshore drilling unit), will be used. Amoco requests that MMS grant a modification of the SDR for 1989 and subsequent years. Amoco also indicates that if a modification is approved and drilling operations are conducted during the fall bowhead whale migration, Amoco would continue the same NMFS-approved research program employed in 1988.

Location: Lease: OCS–Y 0917; *Block:* NR 7–3 724.

Environmental Assessment (EA): EA No. 89–02.

FONSI Date: June 23, 1989.

FOR FURTHER INFORMATION CONTACT: Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS are encouraged to contact the Alaska OCS Regional office of MMS.

The FONSI's and associated EA's are available for public inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Library, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508–4302, phone: (907) 261–4435.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Date: July 17, 1989.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 89–17750 Filed 7–26–89; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Ninety-Fifth Meeting of the Board for International Food and Agricultural Development (BIFAD) on August 10th and 11th, 1989.

The purposes of the Meeting are: (a) To discuss modifications of the CRSP Guidelines, (b) to discuss a report of a Study Group on African Agricultural Research, (c) to hear a presentation of the Small Ruminant CRSP, (d) to hear an updated report on the Training Task Force, (e) to hear a presentation on PL 480 Program, and (f) to hear a presentation on the Procurement integrity Provisions of the Office of Federal Procurement Policy Act of 1988.

The August 10th, 1989 Meeting will be held in the Department of State, Room 1107, 2201 C Street, Washington, DC 20523. The August 11th, 1989 Meeting will also be held in the State Department in Room 107. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent the time available for the meeting permits.

Curtis Jackson, Bureau of Science and Technology, Office of University Relations, Agency for International Development is designated as A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, Rm 309, SA 18, Washington, DC 20523, or telephone him on (703) 235–8929.

Date: July 18, 1989.

Lynn Pesson,

Executive Director, BIFAD.

[FR Doc. 89–17504 Filed 7–26–89; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 400 (Sub 2)]

Exemptions Under 49 U.S.C. 11343(e) for Finance Transactions Involving Non-Rail Intermodal Parties

AGENCY: Interstate Commerce Commission.

ACTION: Notice of new procedure.

SUMMARY: The Commission is adopting a new procedure for processing individual petitions for exemption filed under 49 U.S.C. 11343(e). Under the new procedure, the Commission will publish a notice of the exemption that will become effective automatically 60 days after publication, absent protests.

EFFECTIVE DATE: August 28, 1989.

FOR FURTHER INFORMATION CONTACT:

Paul W. Schach, (202) 275–7885

or

Richard B. Felder, (202) 275–7691

TDD for hearing impaired: (202) 275–1721.

SUPPLEMENTARY INFORMATION: 49 U.S.C. 11343(a) requires prior Commission approval and authorization for certain transactions involving a change in control of carriers or their assets, including operating rights. Under 49 U.S.C. 11343(e), however, transactions involving a motor carrier of property may be exempted from such approval. Section 11343(e) exemptions fall into one of two categories for processing, depending on the type of carriers involved in the underlying acquisition of control transaction. If the transaction involves only motor carriers of property (or motor carriers of property and noncarriers), the request is handled under the class exemption procedures adopted in *Exemption of Certain Transactions Under 49 U.S.C. 11343*, 133 M.C.C. 449 (1984), and codified at 49 CFR Part 1186. If, on the other hand, the transaction involves a motor carrier of property and a motor carrier of passengers or a water carrier, an individual petition for exemption is filed and is handled under the so-called 400 Sub 1 procedures adopted in *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982).[1] While there are no corresponding regulations, the procedures adopted there include notice in the *ICC Register* of the petition, a

[1] Exemption petitions involving rail carriers and motor carriers are now handled under 49 U.S.C. 10505. *See Regular Common Carrier Conf. v. United States*, 820 F.2d 1823 (D.C. Cir. 1987).

comment period, and issuance of a final decision.[2]

Originally, all section 11343(e) petitions were handled under the 400 Sub 1 procedures. However, in response to the large number of section 11343(e) petitions filed and the fact that nearly all were unopposed, the Commission later adopted the class exemption procedures to streamline the process for transactions solely between motor carriers of property. When the Commission receives a notice of exemption governed by the class exemption procedures, it publishes an *ICC Register* notice of the proposed exemption that automatically becomes effective 60 days after publication, absent protests. (Section 11343(e)(2) requires that 60 days elapse after publication before the exemption becomes effective.)

On the other hand, when we receive an individual petition for exemption (one not covered by the class exemption rules), we publish a notice of the proposed exemption in the *ICC Register*. Following a 30-day comment period, a final decision is issued and notice is published in the *ICC Register*. No such petitions have been denied in recent years.

We have now concluded, based on several years of experience in handling both types of cases, that there is no reason to process section 11343(e) exemption requests not covered by 49 CFR 1186 differently from those included in the class exemption. The governing statutory section and issues are identical in each type of case. In Fiscal Year 1987, only 12 petitions not covered by the class exemption were filed; in Fiscal Year 1988 there were six. Each was handled promptly, but the notice and later the decision is time-consuming, causes unnecessary delay to the parties and added administrative work for the agency.

Accordingly, in order to streamline the procedure for handling individual petitions, we are adopting here a one-step procedure that follows, for the most part, our class exemption procedure. It reflects the same process we have been using for some time in the vast majority of petitions for exemption (*e.g.*, rail carrier exemption requests and motor passenger carrier requests for exemption from tariff-filing requirements). We will publish in the *ICC Register* a notice of the proposed exemption, decided by the Commission, that will become effective automatically 60 days after publication, absent protests. Notices will include the specific statutory findings required under section 11343(e).[3] (In class exemption proceedings, the class findings adopted in *Exemption, supra* apply, and no case-by-case analysis is done.) A second decision will be issued only if a protest is received.[4] In such a case, the exemption will not take effect automatically.

Adoption here of new procedures for handling individual petitions for exemption does not require public notice and opportunity for comment prior to implementation. Under 5 U.S.C. 553(b)(A), rules of agency procedure or practice are specifically exempted from the notice and comment requirements of the Administrative Procedure Act. The new procedures announced here relate solely to Commission processing methods. The parties' rights are not adversely affected.

Environmental and Energy Considerations

We conclude that the new procedure announced here will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 11343 and 5 U.S.C. 553.

Decided: July 20, 1989.

By the Commissioners, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-17580 Filed 7-26-89; 8:45 am]

BILLING CODE 7035-01-M

[2] Those procedures were adopted shortly after enactment of the exemption provision in 1982 and without the benefit of any experience with it.

[3] The required findings are: (1) that approval of the transaction is not necessary to carry out the transportation policy of 49 U.S.C. 10101; and (2) either that the transaction is of limited scope, or that approval of the transaction is not needed to protect shippers from the abuse of market power.

[4] In filing such a petition or opposing the ensuing notice, all parties must otherwise continue to follow the procedures adopted in *Procedures, supra*.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on July 11, 1989, a Consent Decree in *United States* v. *A&S Manufacturing Company, Inc.*, Civil Action No. 88-2004, was lodged with the United States District Court for the District of New Jersey. The Consent Decree requires the Defendant to pay a civil penalty of $80,000, and obligates the Defendant to shut down its operations by September 30, 1989, in order to achieve compliance with the Clean Air Act and the New Jersey State Implementation Plan as to emissions of volatile organic compounds.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *A&S Manufacturing Company, Inc.*, D.J. Ref. No. 90-5-2-1-1195.

The Consent Decree may be examined at the office of the United States Attorney, District of New Jersey, Federal Building, 970 Broad Street, Room 502, Newark, New Jersey, 07102; at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York, 10278; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree can be obtained in person or by mail from the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-17551 Filed 7-26-89; 8:45am]

BILLING CODE 4410-01-M

Lodging of Final Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on the 17th day of July, 1989, a proposed final consent decree in *United States and the Metropolitan Government of Nashville and Davidson County* v. *Avco Corporation*, Civil Action No. 3-87-0631, was lodged with the United States District Court for the Middle District of Tennessee. The complaint sought the imposition of injunctive relief and civil penalties under the Clean Air Act against the defendant for violations of applicable portions of the federally-approved and enforceable Nashville-Davidson County State Implementation Plan ("SIP").

The final consent decree is the second part of a two-part settlement of the United States' claims against Avco. The court entered a partial consent decree on August 4, 1988, which required that Avco: Equip two (2) spray paint booths

with a VOC control system, use exclusively complying coatings at thirteen (13) spray paint booths on and after June 30, 1988, and pay a civil penalty of $266,667.20 to the United States and $66,666.80 to Metro. The partial consent decree also imposed stipulated penalties upon Avco for any failure to comply. The terms of the partial consent decree are incorporated into the final consent decree which provides for: Avco's initial demonstration of compliance with the newly revised Tennessee SIP; stipulated penalties for non-compliance; and payment of a civil penalty of $111,110.66 to the United States and $55,555.34 to Metro. Along with entry of the final consent decree, the parties will enter a stipulation dismissing Avco's counterclaims against the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed final consent decree. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and the Metropolitan Government of Nashville and Davidson County* v. *Avco Corporation*, D.J. Ref. 90–5–2–1–1109.

The proposed final consent decree may be examined at the Office of the United States Attorney, U.S. Courthouse, Room 879, 801 Broadway, Nashville, Tennessee 37203, or the U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30364. Copies of the final consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1647, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed final consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–17552 Filed 7–26–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Proposed Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 18, 1989, a proposed Consent Decree in *United States* v. *Campbell Soup Company*, Civil Action Number 87–4133, was lodged with the United States District Court for the District of New Jersey. The Complaint filed by the United States alleged violations of the Clean Air Act and the New Jersey State Implementation Plan ("SIP") adopted pursuant to that Act. Defendant Campbell Soup Company owns a facility in Camden, New Jersey that was formerly operated as a can manufacturing plant. The Campbell Soup Company violated the Clean Air Act and the New Jersey SIP by discharging pollutants into the ambient atmosphere during its can manufacturing operations.

The Consent Decree requires Campbell Soup Company to comply with the Act and the New Jersey SIP should it resume can manufacturing operations at the Camden plant. The Consent Decree also provides that the defendant shall pay a civil penalty of $260,000.00 to the United States and an administrative penalty of $5,000.00 to the State of New Jersey.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice comments relating to the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Campbell Soup Company*, D.J. No. 90–5–2–1–1070.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Post Office Building, 401 Market Street, Fifth Floor, Camden, New Jersey 08101, at the Region II office of the Environmental Protection Agency, Office of Regional Counsel, 26 Federal Plaza, New York, New York 10278, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to *United States* v. *Campbell Soup Company*, D.J. No. 90–5–2–1–1070, and include a check for $1.10 (10 cents per page reproduction charge) payable to the United States Treasury.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–17553 Filed 7–26–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on July 10, 1989, a Consent Decree in *United States* v. *Roger Nordlum*, Civil Action No. A87–489, was lodged with the United States District Court for the District of Alaska. The Complaint filed by the United States alleged violation of the Clean Water Act due to defendant's discharge of pollutants from his gold placer mine without an NPDES Permit. The Consent Decree requires the defendant to pay a civil penalty of $5,000, and enjoins the defendant from future violations of the Clean Water Act.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC, and should refer to *United States* v. *Roger Nordlum*, D.J. Ref. No. 90–5–1–1–2923.

The Consent Decree may be examined at the office of the United States Attorney, District of Alaska, Federal Building and U.S. Courthouse, 701 C Street, 1 Room C–252, Anchorage, Alaska 99513, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree can be obtained in person or by mail from the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–17554 Filed 7–26–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 13, 1989 a proposed Consent Decree in *United States of America* v. *Queen City Barrel Company*, Civil Action No. C–1–89–495 (S.D. Ohio), between the United States, on behalf of the United States Environmental Protection Agency ("U.S. EPA"), and Queen City Barrel Company has been lodged with the United States District

Court for the Southern District of Ohio. The Consent Decree resolves the claims of the United States against Queen City Barrel Company under the Clean Air Act, for violations at defendants drum painting and reconditioning facility in Cincinnati, Ohio, of air pollution control regulations contained in the federally-approved and enforceable Ohio State Implementation Plan ("SIP"). The settlement reflected in the proposed Consent Decree provides for compliance with the Ohio SIP, and, payment of a civil penalty of $25,000 to be divided between U.S. EPA and the Ohio Environmental Protection Agency, and payment of stipulated penalties should the decree be violated. In addition, defendant will be required to operate and maintain the paint lines and ovens so as to achieve pollution control in excess of that required by the Ohio SIP.

The Department of Justice will receive comments relating to the Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America v. Queen City Barrel Company*, D.J. Ref. No. 90-5-2-1-1339. The proposed Consent Decree may be examined at the Office of the United States Attorney, 220 U.S. Post Office & Courthouse, 5th & Walnut Streets, Cincinnati, Ohio 45202, at the Environmental Protection Agency, 230 Sourth Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1748, Tenth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.40 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-17555 Filed 7-26-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on June 27, 1989 filed written notifications, on behalf of Bellcore and Telecommunications Research Laboratory, (hereinafter known as "TFL") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

TFL is a Denmark corporation with its principal place of business in Lyngso Alle, 2970 Horsholm, Denmark.

Bellcore and TFL entered into a written agreement effective May 1, 1989 to collaborate on research to better understand the applications for exchange and exchange access services of various technologies including coherent optical communications systems and detection electronics for such systems.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-17556 Filed 7-26-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—X/Open, Ltd.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), X/Open, Ltd. ("X/Open") on July 7, 1989 has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership as of July 1, 1989. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, which limit the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On October 19, 1988, X/Open filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 16, 1988 (53 FR 46128). On April 4, 1989, X/Open filed an additional written notification. The Department published a notice in the **Federal Register** in response to this additional notification on May 4, 1989 (54 FR 19255).

The identities of the new members of X/Open are set forth below: Open Software Foundation, 11 Cambridge Center, Cambridge, MA 02142. Unix International, 6 Century Drive, Parsippany, NJ 07054.

No other changes have been made in either the membership or planned activity of X/Open.

Joseph H. Widmar,

Director of Operation, Antitrust Division.

[FR Doc. 89-17557 Filed 7-26-89; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-142]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Phase II Dismantling of the Reactor and Disposition of Component Parts, The University of California at Los Angeles

The Nuclear Regulatory Commission (the Commission) is considering issuance of an Order authorizing the University of California at Los Angeles (UCLA) to complete dismantlement (Phase II) of the UCLA Argonaut Reactor Facility on its campus in Los Angeles, California and to dispose of the reactor components in accordance with the application dated June 10, 1988 as supplemented on June 21, 1988, December 7, 1988 and March 31, 1989.

Environmental Assessment

Identification of Proposed Action

By application dated June 10, 1988 as supplemented, UCLA requested Phase II authorization to decontaminate and dismantle the Argonaut Research Reactor and to dispose of its component parts in accordance with the proposed dismantling plan.

Based upon a prior application to dismantle and dispose of the component parts, an opportunity for hearing was afforded by a "Notice of Proposed Issuance of Orders Authorizing Disposition of Components Parts of Terminating Facility License" that was published in the **Federal Register** on September 24, 1984 at 49 FR 37484.

Following hearings and stipulations by the parties involved, an Order was issued on November 8, 1985, by the

Atomic Safety and Licensing Board that terminated UCLA License No. R–71 and authorized UCLA to possess but not operate the facility.

By application dated October 29, 1985, as supplemented, UCLA submitted a Phase I decommissioning plan. An Order authorizing Phase I dismantling of the facility and disposition of component parts was issued by the Commission on July 14, 1986. Phase I dismantlement and disposition of component parts has been completed except for the disposition of 5000 pounds of activated lead. This issue must be resolved for UCLA to be in compliance with the Phase I Order.

Need for Proposed Action

In order to prepare the facility for unrestricted access and use, the dismantling and decontamination activities proposed by UCLA must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The staff has calculated that the collective dose equivalent for the project will be less than 2 person-rem.

These conclusions were based on the fact that all proposed operations are carefully planned and controlled, all contaminated components are removed, packaged, and shipped offsite, and that the radiological control procedures ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR Part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the UCLA facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

The staff has also determined that the proposed activities will not result in any significant non-radiological impacts on air, water, land, or biota in the area.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain the facility as a restricted area. This approach would include monitoring and reporting for the duration of the safe storage period. However, the University intends to use the area for other academic purposes.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action based upon the foregoing environmental assessment. We conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for Phase II decommissioning dated June 10, 1988, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland this 20th day of July 1989.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–17572 Filed 7–26–89; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.64, "Calculation of Radon Flux Attenuation by Earthen Uranium Mill Tailings Covers," describes methods acceptable to the NRC staff for calculating radon fluxes through earthen covers and for calculating the resulting minimum cover thickness needed to meet NRC and Environmental Protection Agency standards. A computer program for calculating the radon fluxes is included in the guide.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2060 or (202) 275–2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 3rd day of July 1989.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 89–17568 Filed 7–26–89; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment drafts of two new guides planned for Division 7, "Transportation," of its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and

data needed by the staff in its review of applications for permits and licenses.

The draft guides are DG–7001, "Fracture Toughness Criteria for Ferritic Steel Shipping Cask Containment Vessels with a Maximum Wall Thickness of Four Inches (0.1 m)," and DG–7002, "Fracture Toughness Criteria for Ferritic Electric Steel Shipping Cask Containment Vessels with a Wall Thickness Greater than Four Inches (0.1 m)." These guides are being developed to provide guidance on fracture toughness criteria and test methods acceptable to the NRC staff for use in evaluating ferritic steel shipping cask containment vessels.

These draft guides are being issued to involve the public in the early stages of developing a regulatory position in these areas. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guides, including any implementation schedule. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by September 22, 1989.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 13th day of July 1989.

For the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 89–17569 Filed 7–26–89; 8:45 am]

BILING CODE 7590–01–M

[NUREG–0800]

"Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants"; Issuance and Availability Revised SRP Sections 2.4.2 and 2.4.3

The U.S. Nuclear Regulatory Commission (NRC) has published Revision 3 to Standard Review Plan (SRP) sections 2.4.2 (Floods) and 2.4.3 (Probable Maximum Flood (PMF) of Streams and Rivers) of NUREG–0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

The NRC has revised (Revision 3) sections 2.4.2 and 2.4.3 of the SRP to incorporate the Probable Maximum Precipitation (PMP) procedures and criteria contained in the latest National Oceanic and Atmospheric Administration/National Weather Service (NOAA/NWS) publications. The revised SRP sections will be used in the review of new CP and OL applications docketed after the issuance of these revisions. The SRP also indicates that new information that becomes available after the issuance of the Construction Permit (CP) will be used by the NRC in evaluating an operating license, and its safety significance will be addressed in the NRC's Safety Evaluation Report.

The issuance of Revision 3 to SRP sections 2.4.2 and 2.4.3, along with a Generic Letter to be sent to licensees, will serve as the staff's resolution of Generic Safety Issue 103, "Design for Probable Maximum Precipitation."

The revised sections are effective immediately. A copy is expected to be available in the Commission's Public Document Room within two weeks. Copies of the revised sections are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487–4650.

Dated at Rockville, Maryland this 18th day of July 1989.

For The Nuclear Regulatory Commission.

Edward J. Butcher, Jr.,

Chief, Inspection and Licensing Program Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 89–17571 Filed 7–26–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 72–3]

Carolina Power and Light Co.; Issuance of Amendment to Materials License SNM–2502

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Materials License No. SNM–2502 held by the Carolina Power and Light Company for the receipt and storage of spent fuel at the Independent Spent Fuel Storage Installation (ISFSI) at the H.B. Robinson Steam Electric Plant Unit No. 2, located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment changes the frequency, from annually to semiannually, of reporting effluent releases to the environment from the ISFSI, as specified on page 2 of Appendix C, Section 1.4.1. The amendment revises the Technical Specifications making administrative changes which do not affect fuel receipt, handling, and storage safety.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(11), an environmental assessment need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 29, 1989, and (2) the Commission's letter to the licensee dated July 20, 1989. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC.

Dated at Rockville, Maryland this 20th day of July 1989.

For the U.S. Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89–17570 Filed 7–26–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

A planned modification to the McGuire Nuclear Station will add new areas to the station for use in holding, processing and reduction of liquid and solid radwaste materials. As a result of the modification, a new Heating Ventilation and Air Conditioning (HVAC) system will be added to provide ventilation services for the new area and some areas previously serviced by the Auxiliary Building Filtered Ventilation Exhaust (ABFVE) system, which will require a change to existing ABFVE system flowrates given in the Technical Specifications (TS). This reduction in the area served by the system will result in lower ABFVE system flowrates to the Unit 1 and 2 Vents. Presently, the flowrates listed in TS 4.7.7 are 54,000 CFM +/− 10% for Unit 1 and 43,000 CFM +/− 10% for Unit 2. Upon completion of the modification, these values will be reduced to 45,700 CFM +/− 10% for Unit 1 and 40,500 CFM +/− 10% for Unit 2.

The modification will also relocate an existing gaseous effluent release point, and relocate an existing radiation monitor (EMF 53). Relocating the release point requires a change to the TS Figure 5.1-3 that identifies the location of the existing McGuire gaseous release points. A more legible copy of the Figure 5.1-3 would also be substituted. Also, administrative changes to several TS tables are proposed to rename the "Contaminated Parts Warehouse Ventilation System" to the "Waste Handling Ventilation System."

The proposed amendments would change the McGuire TS consistent with the above planned modifications. The above proposed changes will affect TS 4.7.7; Table 3.3-13 (Item 8); Table 4.3-9 (Item 8); Table 4.11-2 (Item 4b); and, Figure 5.1-3.

The licensee finds that the gaseous curie release from plant operations will not increase or be of a different type as a result of this modification. The improved solid waste handling capability will reduce solid radwaste volume while the improved laundry facilities will reduce liquid radwaste volume. The modification to the ventilation systems as described, and the relocation of the existing release point will not increase the existing offsite dose analysis or the environmental consequences of operating the plant.

The application for the amendments was dated May 11, 1989, and supplemented June 14, 1989.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 28, 1989, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 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 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, 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, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L 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 David B. Matthews, Director; Project Directorate II-3; (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 Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

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 May 11, 1989, as supplemented June 14, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Mayland, this 21st day of July 1989.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Project Manager, Project Directorate II–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–17566 Filed 7–26–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–272/311]

Public Service Electric and Gas Co.; (Salem Generating Station, Units 1 and 2); Exemption

I

The Public Service Electric & Gas Company (the licensee) is the holder of Facility Operating License Nos. DPR–70 and DPR–75 which authorizes operation of the Salem Generating Station, Units 1 and 2, at a power level not in excess of 3411 megawatts thermal each. The facilities are pressurized water reactors located at the licensee's site in Salem County, New Jersey. The license provides, among other things, that the facilities are subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised 10 CFR 50.48 and Appendix R became effective on February 17, 1981; § 50.48(c) established the schedules for satisfying the provisions of Appendix R; Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for particular aspects of the fire protection features at a nuclear power facility. One of the fifteen subsections, III.G, is the subject of this exemption request.

By letter dated July 15, 1988, the licensee requested approval of exemptions from the technical requirements of section III.G of Appendix R to 10 CFR 50 in fourteen fire areas and a "generic" exemption that relates to conditions in a number of plant locations. This submittal includes information contained in previous letters to the staff dated January 31, 1985 and January 17, 1986.

Section III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

1. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

2. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet containing no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; and

3. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern. It also requires that a fixed fire suppression system be installed in the fire area of concern if it contains a large concentration of cables or other combustibles. These alternative requirements are not deemed to be equivalent; however, they provide equivalent protection for those configurations in which they are accepted.

1 EXEMPTION, STATION WIDE (License Exemption 1)

1.1 Exemption Requested

The licensee requested an exemption from Section III.G.2.a to the extent that 1½-hour fire rated doors and dampers, 1-hour fire-rated ventilation ducts and their penetration seals, and non-rated equipment hatches do not provide 3-hour fire-rated barriers between areas containing redundant shutdown systems, equipment, cables and associated circuits.

1.2 Discussion

In several locations throughout the plant (delineated in the licensee's July 15, 1988 letter, Appendix A) openings exist in 3-hour fire-rated walls and floor/ceiling assemblies. These openings are protected by 1½-hour rated fire doors or dampers, 1-hour rated ventilation ducts and seals, or non-fire-rated steel hatches.

The nature of the fire hazard in the areas adjacent to these openings varies significantly. However, where a significant in-situ combustible loading exists in an area, the licensee has committed to implement certain plant modifications which include:

—Replacing certain doors and dampers with 3-hour fire-rated assemblies;
—Installation of additional fire detectors; or
—Converting existing manually actuated fire suppression systems to automatic actuation.

These modifications supplement existing fire protection which includes automatic fire detection systems, manual fire fighting equipment and fire-rated cable enclosures which protect one safe shutdown division as described in Appendix A to the July 15, 1988 submittal.

1.3 Evaluation

The technical requirements of section III.G.2.a. have not been met in the subject locations because the 3-hour fire barriers which separate redundant shutdown divisions contain openings which are not protected by equivalent fire-rated doors or fire dampers.

The staff was originally concerned that there may be significant quantities of combustible materials, which if ignited, would produce a fire of sufficient intensity and duration to penetrate the barrier and spread to adjoining plant locations causing damage to redundant safe shutdown systems.

However, the locations where a significant combustible loading exists are either protected by automatic fire detection and suppression systems or the licensee has committed to implement additional modifications as described above. Where this is not the case, the potential fire severity is less than the existing doors, dampers, ventilation ducts and cable enclosures, with conservative margin. Where non-rated steel hatches exist, either the area below is protected by an automatic fire suppression system or potential fire

spread up through the hatch will not affect redundant shutdown systems.

With regard to the hatches, the staff expressed a related concern that use of hose streams in one fire area might cause water to flow downward through an unsealed hatch and damage redundant shutdown equipment below. The licensee affirmed that no water sensitive electronic components exist in proximity to the hatches which would be affected under such a scenario. On this basis only, this issue is considered closed.

The fire severity (as determined from the ASTM E–119 time-temperature curve) in the remaining areas varies from 1 minute to 46 minutes. The licensee also justifies the exemption on the basis that in some locations fire spread through the subject barriers would not damage more than one shutdown division

With regard to the dampers, the staff was also concerned that the fire dampers might not function under air flow conditions (ref. 10 CFR Part 21 notification by Ruskin Manufacturing). However, as confirmed during the September 1987 Appendix R compliance inspection, the licensee is peforming operational tests of the dampers under airflow conditions. On this basis, this issue is considered closed.

1.4 Conclusion

Based on our review of the licensee's proposals, we conclude that the licensee's altenative fire protection configuration, including the proposed modifications, provides an equivalent level of safety to that achieved by compliance with Appendix R to 10 CFR Part 50. Therefore, the licensee's exemption request for the lack of 3-hour rated barriers in the locations delineated in Appendix A to the July 15, 1988 letter to the staff should be approved.

2 CONTROL ROOM COMPLEX (AREAS 1 & 2 FA–AB–122A) (Licensee Exemption 2)

2.1 Exemption Requested

The licensee requested an exemption from Section III.G.3 of Appendix R to 10 CFR Part 50 to the extent it requires a fixed fire suppression system for an area where alternate shutdown capability is provided. Specifically, the Salem Units 1 and 2 control room complex does not have a fixed fire suppression system.

2.2 Discussion

The physical configuration of the control room complex, including perimeter construction, fire hazards and existing fire protection features is as described in Enclosure 1 of the licensee's July 15, 1988 letter.

Although the walls separating the two control rooms are not fire walls, the doors leading to the control rooms are rated for ¾ hour. The doors are marked as fire doors and must remain closed. They are also equipped with automatic door closures. The doors have been included in the fire door list and are governed as a Technical Specification item. The restrictions on these doors are designed to prevent the propagation of smoke from one control room to the other.

The Unit 1 ventilation equipment provides cooling for the Unit 1 control complex, the corridor between the two control rooms and the peripheral rooms that are shared by both units. The Unit 2 ventilation equipment provides cooling for the Unit 2 control complex. The ventilation systems for both units have been balanced to maintain equal pressure in both control rooms. Tests have been performed and it has been confirmed that smoke does not propagate between control rooms when the ventilation systems are balanced. The damper vanes are mechanically locked in position to maintain the pressure balance.

In the event that fire were to propagate from one control room to the next the licensee has affirmed that the capability exists to bring both units to a safe shutdown condition.

The licensee justified the exemption on the basis of the existing fire protection and the continuous presence of control room operators.

2.3 Evaluation

The technical requirements of section III.G.3 are not met in the control room because of the lack of a fixed fire suppression system.

The staff was originally concerned that a fire of significant magnitude could occur within the control room complex. Existing combustible materials are dispersed throughout the area. The automatic fire detection system, coupled with the continuous presence of control room operators, provides reasonable assurance that a fire will be discovered in its initial stages before significant propagation and room temperature rise occurs. At such a point in time, the fire would be expected to be extinguished by plant operators or the fire brigade before much damage occurred to plant safety systems. If rapid fire spread occurred before intervention by plant personnel, the control room could be evacuated and safe plant shutdown achieved using the alternate shutdown capability, which the licensee has affirmed is physically and electronically independent of the control room, and emergency shutdown procedures. Therefore, the absence of a fixed fire suppression system has no safety significance.

2.4 Conclusion

Based on our review of the licensee's proposals, we conclude that the licensee's alternate fire protection configuration provides an equivalent level of fire protection to that achieved by compliance with the requirements of Appendix R to 10 CFR Part 50. Therefore, the licensee's request for exemption from the requirement for a fixed fire suppression system in the control room complex should be granted.

3 REACTOR PLANT AUXILIARY EQUIPMENT AREA—ELEVATION 100 FT. AND 110 FT. (AREAS 1 & 2 FA–AB–100C) (Licensee Exemption 3)

UPPER ELECTRICAL PENETRATION AREA (AREAS 1 & 2 FA–EP–100G) (Licensee Exemption 4)

INNER PIPING PENETRATION AREA (AREAS 1 & 2 FA–PP–100H) (Licensee Exemption 4)

REACTOR PLANT AUXILIARY BUILDING—ELEVATION 64 FT. (AREAS 1 & 2 FA–AB–64B) (Licensee Exemption 10)

3.1 Exemptions Requested

The licensee requested exemptions from the requirements of Section III.G.2 of Appendix R to 10 CFR Part 50 in the above-referenced areas to the extent that it requires the separation of redundant safe shutdown cables and equipment by 1-hour fire-rated barriers plus automatic fire suppression and detection systems. Specifically, these locations are not protected by automatic fire suppression systems or area-wide fire detection systems.

3.2 Discussion

The physical configuration of the subject fire areas, including perimeter construction, fire hazards and existing fire protection features is as described in Enclosure 1 to the licensee's July 15, 1988 letter.

The staff was initially concerned that although the licensee has been explicit as to the shutdown-related cables located in the areas, not all of the redundant post-fire safe shutdown components had been identified. The licensee affirmed, however, that the only redundant safe shutdown components present in these locations were those specifically identified in the exemption requests.

The licensee committed in the July 15, 1988 letter to protect cables associated with one safe shutdown path in a 1-hour fire-rated barrier.

In Fire Areas 1 and 2 FA–EP–1006, in lieu of protecting the air supply and chilled water cabling, the non-fire-affected unit's emergency control air compressor will be utilized.

The licensee justifies the exemptions on the bases of the limited fire loading, the existing fire protection and the proposed modifications.

3.3 Evaluation

The technical requirements of Section III.G.2 are not met in the subject locations because of the lack of automatic fire suppression systems. The absence of area-wide fire detection systems is not considered a non-conformance. Generic Letter 86–10 stipulates that where partial coverage automatic fire detection and suppression exist in an area, licensees may perform a fire hazards evaluation to justify the lack of complete coverage. The staff considers the summary analyses contained in the exemption requests as being sufficient to satisfy the guidelines issued in the Generic Letter.

With regard to the absence of an automatic fire suppression system, the staff was originally concerned that a fire could occur in the subject areas and damage cables or components of both shutdown divisions. However, the principal fire hazard in these locations is combustible cable insulation. The remaining combustibles are of a type and quantity that do not represent a significant hazard. A fire in these areas would be characterized initially by smoldering combustion with limited heat release. The smoke from a fire would be detected automatically by the existing fire detection system or by plant operators. The fire brigade would be dispatched to the area and would extinguish the flames using manual fire fighting equipment. If rapid fire propagation or if significant room temperature rise occurred before the arrival of the brigade, the proposed 1-hour fire barrier would provide a sufficient degree of passive protection to assure that one safe shutdown division would remain free of fire damage.

In the upper electrical penetration area, redundant air supply and chilled water cabling is vulnerable to damage. The licensee has proposed to use the opposite (non-fire-affected) unit's emergency control air compressor in the event of a fire. However, the licensee has not proposed to adopt technical specifications to assure that this capability will be available. The specific concern is that if the opposite unit is in an outage, the emergency control air compressor may not be available. The lack of technical specifications for alternate shutdown capability systems conflict with the guidance issued in Generic Letters 81–12 and 88–12 and will not provide a level of safety equivalent to that achieved by compliance with Appendix R.

3.4 Conclusion

Based on our review of the licensee's proposals, we conclude that, except for the upper electrical penetration area, the licensee's alternate fire protection configuration with the proposed modifications, provides an equivalent level of safety to that achieved by compliance with Appendix R. Therefore, the licensee's request for exemption from the requirement for an automatic fire suppression system in the above-referenced areas should be approved. In the upper electrical penetration area, the exemption should be denied. The licensee's request for exemption pertaining to the lack of area-wide automatic fire detection in these areas is not needed.

4 MECHANICAL PENETRATION AREAS—ELEVATION 78 FEET AND 100 FEET (FIRE AREAS 1 AND 2 FA–MP–781) (LICENSEE EXEMPTION 5)

4.1 Exemption Requested

An exemption was requested from Section III.G.2.C to the extent that it requires an automatic fire suppression system installed in a fire area that contains redundant safe shutdown equipment.

4.2 Discussion

This fire area consists of the mechanical penetration areas on elevations 78 feet and 100 feet of the auxiliary building. It is constructed of reinforced concrete with 3-hour fire rated barriers. Doors, dampers, and HVAC duct pennetrations are not 3-hour fire rated; however, these are the subject of a generic exemption previously evaluated to be acceptable. The fire load in this area is low (less than 10,000 Btu per square foot) and there are no fire hazardous equipment or concentrated heavy fire loads in the area. The low fire loads of 10,000 Btu per square foot translates into a fire severity of less than 10 minutes on the ASTM E–119 time-temperature curve.

The redundant equipment located in this area include piping and valves for the following:

—Component cooling system (CCS)
—Service water system
—Residual heat removal system
—Safety injection system.

The existing fire protection includes an area-wide fire detection system, fire extinguishers, and hose stations.

4.3 Evaluation

The fire protection in this fire area does not comply with the technical requirements of section III.G.2.C of Appendix R because an automatic fire suppression system has not been installed in an area containing redundant divisions of shutdown equipment.

There was a concern that a fire in this fire area could cause the loss of normal shutdown capability. However, the fire load in this area is low (less than 10,000 Btu per square foot). Because of the low combustible loading, a fire of significant magnitude or duration is not expected to occur. An area-wide fire detection system is available in this area and in adjacent areas. Therefore, there is reasonable assurance that a fire in this fire area will be detected in its early stages and extinguished by the fire brigade before adjacent safety-related areas are threatened. Also, the expected low fire severity would not be a threat to piping and valves.

4.4 Conclusion

Based on the above evaluation, it is concluded that the existing fire protection features already in place combined with the alternative shutdown capability for the above described fire area provided a level of fire protection equivalent to the technical requirements of section III.G.2.C of Appendix R. Therefore, the exemption should be approved.

5 460V SWITCHGEAR ROOM (AREAS 1 & 2 FA–AB–84A) (Licensee Exemption 6)

LOWER ELECTRICAL PENETRATION AREA (AREAS 1 & 2 FA–EP–78C) (License Exemption 8)

4160V SWITCHGEAR ROOM (AREAS 1 & 2 FA–AB–64A) (Licensee Exemption 9)

5.1 Exemptions Requested

The licensee requested exemptions from the requirements of section III.G.2 of Appendix R to 10 CFR Part 50 in the above-referenced areas to the extent that it requires the separation of redundant safe shutdown equipment by 1-hour fire-rated barriers plus automatic suppression and detection systems. Specifically, redundant safe shutdown systems are not protected by complete, 1-hour fire barriers. In addition, the fire suppression system in the 4160V switchgear room is manually actuated.

5.2 Discussion

The physical configuration of the subject fire areas, including perimeter construction, fire hazards and existing fire protection is as described in Enclosure 1 to the licensee's July 15, 1988 letter.

The staff was initially concerned that not all redundant safe shutdown components had been identified in the licensee's submittal for these areas. The licensee affirmed however that the only redundant safe shutdown components were those specifically identified in Enclosure 1.

The licensee committed to protect one division of safe shutdown cables in a 1-hour fire-rated enclosure as described in the July 15, 1988 letter.

The licensee justified the exemptions on the basis of the existing protection and proposed modifications. Additionally, in the 460V switchgear room, the licensee indicated that an alternate shutdown capability exists for redundant shutdown cables that are not encompassed by the above-referenced modification.

5.3 Evaluation

The technical requirements of section III.G.2 are not met in the subject locations because certain redundant safe shutdown cables and components are not protected by complete (wall-to-wall, floor-to-ceiling) 1-hour fire barriers. Also the 4160v switchgear room is protected by a manually actuated fire suppression system. The staff issued an exemption for the lack of an automatic fire suppression system in the 4160V switchgear room by letter dated June 17, 1983.

The principal concern with the level of fire protection in these fire areas was that because of the absence of complete 1-hour fire-rated barriers between redundant trains of safe shutdown equipment and cables, a fire of significant magnitude could develop and damage redundant shutdown systems. However, the fire load in these locations is low. If a fire were to occur, it is expected that it would develop slowly, with initially low heat release and slow room temperature rise. Because of the presence of the early warning fire detection systems in all three areas, any fire would be detected in its incipient stages. Also, each of these areas is protected by an area-wide fire suppression system. The alarms from these detectors and fire suppression systems are annunciated in the control room. The fire brigade would ultimately be dispatched and would extinguish the fire manually using hose lines or portable extinguishers Until the fire was put out, the existing fire barriers and the 1-hour fire rated cable wrapping between the redundant shutdown systems would provide sufficient passive protection to provide reasonable assurance that one shutdown division would remain free of fire damage. Therefore, the lack of a complete barrier to protect these systems is not considered safety significant.

5.4 Conclusion

Based on our review of the licensee's proposals, we conclude that the licensee's alternate fire protection configuration plus the proposed modifications provides an equivalent level of fire protection to that achieved by compliance with Appendix R. Therefore, the licensee's request for exemption from the requirement for a complete 1-hour fire-rated barrier in the subject areas should be approved. The staff's evaluation of the June 17, 1983 exemption request for the lack of an automatic fire suppression system in the 4160 V switchgear room remains valid.

6 REACTOR PLANT AUXILIARY EQUIPMENT AREA—ELEVATION 84 FT. (AREAS 1 & 2 FA–AB–84B) (Licensee Exemption 7)

6.1 Exemption Requested

The licensee requested an exemption from the requirements of Section III.G.2 of Appendix R to 10 CFR Part 50 to the extent that it requires the separation of redundant safe shutdown cables and equipment by 1-hour fire-rated barriers plus automatic fire detection and suppression systems. Specifically, area-wide detection and suppresion systems are not provided. Additionally, auxiliary feedwater (AFW) system and chemical and volume control system (CVCS) equipment are not separated by complete fire rated barriers.

6.2 Discussion

The physical configuration of this location, including perimeter construction, fire hazards, existing fire protection features and the inventory of safe shutdown systems is as described in Enclosure 1 to the licensee's July 15, 1988 letter.

To enhance fire protection in the area, the licensee proposed to implement the following modifications:

—Installation of partial 1-hour fire-rated barriers so as to achieve at least 30 feet of spatial separation of shutdown related cables;

—Expand the existing wet-pipe sprinkler system in the charging pump area to provide full coverage around the pump;

—Enhance the sprinkler systems which protect the auxiliary feedwater pumps as described in the July 15, 1988 letter;

—The No. 11 (21) component cooling water (CCW) pump and the No. 11 (21) component cooling heat exchanger will be enclosed in a 3-hour fire-rated cubicle as described in the above-referenced letter.

The licensee justifies the exemption on the bases of the limited fire loading, existing fire protection and proposed modifications.

6.3 Evaluation

The technical requirements of section III.G.2 are not met in this area because AFW and CVCS equipment are not separated by complete (wall-to-wall, floor-to-ceiling) 1-hour fire-rated barriers. Also, the intervening space between redundant shutdown cables contains a small quantity of combustible materials. The absence of area-wide fire detection and suppression systems is not considered a non-conformance. Generic Letter 86–10 stipulates that where partial coverage automatic fire detection and suppression systems exist in an area, licensees may perform a fire hazards evaluation to justify the lack of complete coverage. The staff considers the summary analyses contained in the exemption request as being sufficient to satisfy the guidelines issued in the Generic Letter.

With regard to the partial fire barriers and intervening combustibles the staff was initially concerned that a fire which originates in this area could achieve a level of intensity and propagate to such an extent as to damage both shutdown divisions. However, the locations where significant fire hazards or vulnerable systems are present are protected by an automatic fire detection system. If a fire occurred the system would detect it in its initial stages and transmit an alarm directly to the control room. The plant fire brigade would be dispatched to the scene and would extinguish the fire using portable fire fighting equipment. These same locations are also protected by an automatic fire suppression system. If rapid fire propagation or room temperature rise occurred the system would actuate to control the fire and to protect vulnerable systems. Pending arrival of the bridage and/or the actuation of the fire suppression system the fire barriers and spatial separation between the redundant cables and components provide a sufficient degree of passive protection to assure that at least one shutdown division will remain free of fire damage.

6.4 Conclusion

Based on our review of the licensee's proposals, we conclude that the licensee's alternate fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with Appendix R. Therefore the licensee's request for exemption from section III.G.2 should be approved. The licensee's request for exemption from the requirement for area-wide fire detection and suppression systems in this area is not needed.

7 RESIDUAL HEAT REMOVAL PUMP AND HEAT EXCHANGER AREAS (AREAS 1 & 2 FA–AB–45A and B) (License Exemption 13)

7.1 Exemption Requested

The licensee requested approval of an exemption from the technical requirements of section III.G.2 of Appendix R to 10 CFR Part 50 to the extent that it requires the separation of redundant safe shutdown system by complete 3-hour fire-rated barriers. Specifically, redundant cables in these areas are separated by 3-hour fire rated walls with open penetrations.

7.2 Discussion

The physical configuration of this location including perimeter construction, fire hazards, existing fire protection features and the inventory of safe shutdown systems is as described in Enclosure 1 to the licensee's July 15, 1988 letter.

To enhance fire protection the licensee proposed to implement the following modifications:

—Extend the fire detection system throughout elevation 55 feet with the exception of the RHR heat exchangers;
—Seal the openings around the ventilation duct which penetrates the fire wall on elevation 45 feet.
—Enclose cables associated with one shutdown division on elevation 55 feet in a 1-hour fire barrier such that 20 feet of spatial separation is achieved to their redundant counterpart.

The licensee justified the exemption on the basis of the existing protection and the proposed modifications.

7.3 Evaluation

The technical requirements of section III.G.2 are not met in these areas because redundant safe shutdown cables are not separated by a complete (wall-to-wall, floor-to-ceiling) 3-hour fire-rated barrier.

The staff was originally concerned that a fire of significant magnitude could occur which might propagate through the openings in the fire wall and damage both shutdown divisions. However, the fire loading in these areas is minimal. If all of the combustible materials ignited and were consumed, the resulting fire would be of 5 minutes duration as determined by the ASTM E–119 Time Temperature Curve. The combustibles consist of cable insulation and lubricating oil in pumps. A fire involving these materials would be characterized, initially, by slow burning, low heat release and the production of moderate quantities of smoke. The smoke detection system would actuate and alarm automatically in the control room. The fire brigade would be dispatched and would put out the fire before rapid burning occurred. Pending arrival of the brigade, the products of combustion would be largely confined to the area of origin. Because of the openings in the fire wall some smoke and hot gases would spread into the adjoining fire area. It is the staff's judgement, however, that the products of combustion would be sufficiently cooled and dissipated so as not to represent a significant threat to the redundant cables. Also, the cables themselves are not immediately vulnerable to smoke damage. Failure due to heat damage would not occur until well after initial ignition. The staff concludes that sufficient time exists for the fire brigade to intervene to suppress the fire prior to damage to redundant systems. The lack of a complete 3-hour fire barrier is, therefore, not considered safety significant.

7.4 Conclusion

Based on our review of the licensee's proposal we can conclude that the licensee's alternate fire protection configuration, including the proposed modifications provides an equivalent level of fire safety to that achieved by compliance with Appendix R. Therefore, the licensee's request for exemption from the requirement for a complete 3-hour rated fire barrier between redundant systems in the subject area should be approved.

8 CONTAINMENT (AREAS 1 & 2 FA–RC–78) (Licensee Exemption 12)

8.1 Exemption Requested

The licensee requested approval of an exemption from the requirements of section III.G.2 of Appendix R to 10 CFR Part 50 to the extent that it requires that redundant cables and equipment within containment be separated by at least 20 feet of horizontal distance free of intervening combustibles or be separated by a radiant energy shield.

8.2 Discussion

The physical configuration of redundant systems within containment, the existing fire hazards and available protection are as described in Enclosure 1 to the licensee's July 15, 1988 letter.

To enhance fire safety the licensee has proposed to install a localized fire suppression system to protect Panel 335 which contains redundant channels of pressurizer pressure and level instrumentation.

The licensee justifies the exemption on the bases of the limited fire loading, the existing fire protection and the proposed modification.

8.3 Evaluation

The technical requirements of section III.G.2 are not met within containment because redundant systems at the pressurizer and at Panel 335 are not separated by at least 20 feet or separated by a radiant energy shield.

The staff was originally concerned that a fire could occur which would damage redundant shutdown divisions. However, the principal fire hazard within containment, the lube oil in the reactor coolant pumps, has been mitigated by the existing oil collection system and the water spray system over the RCP lube oil life pump and its discharge lines. The remaining combustible materials are dispersed throughout the area. If a fire were to occur, the resulting smoke and hot gases would rise up into the upper areas of the containment and away from vulnerable shutdown systems. The upper area would act as an effective heat sink until the fire self-extinguishes or is put out by the plant fire brigade. Pending fire extinguishment the existing spatial separation between redundant systems, except for the subject locations, would assure that at least one shutdown division would remain free of fire damage.

At Panel 335, the licensee will install an automatic fire suppression system that will provide reasonable assurance that at least one channel of pressurizer pressure and level instrumentation will remain free of damage.

No additional fire protection modifications are feasible at the pressurizer to enhance the existing level of fire safety. It is the staff's judgement that it is not credible to postulate a significant fire in the vicinity of the pressurizer which would prevent safe shutdown from being achieved.

8.4 Conclusion

Based on our review of the licensee's proposal, we conclude that the licensee's alternate fire protection

configuration provides an equivalent level of fire safety to that achieved by compliance with Appendix R. Therefore, the licensee's request for exemption from the requirements of section III.G.2 for at least 20 feet of separation between redundant shutdown systems at Panel 35 and at the pressurizer within containment should be approved.

9 PIPE TUNNEL—ELEVATION 84 FEET (AREA 12 FA–PT–84) (Licensee Exemption 14)

9.1 Exemption Requested

The licensee requested approval of an exemption from the technical requirements of section III.G.2 of Appendix R to 10 CFR Part 50 to the extent that it requires that redundant shutdown systems be separated by at least 20 feet free of intervening combustibles and be protected by automatic fire detection and suppression systems. Specifically, redundant systems are separated by less than 20 feet and the tunnel is not protected by an automatic fire suppression system.

9.2 Discussion

The physical description of this area, including perimeter construction, fire hazards, existing fire protection and configuration of safe shutdown systems is as described in Enclosure 1 to the licensee's July 15, 1988 letter.

To enhance fire safety the licensee committed to install a fire detection system throughout the pipe tunnel which will transmit an alarm automatically to the control room.

The licensee justified the exemption on the bases of the limited fire loading, the unaccessibility of the tunnel and the proposed modification.

9.3 Evaluation

The technical requirements of section III.G.2 are not met in this area because redundant shutdown divisions are separated by less than 20 feet horizontal distance and the tunnel is not protected by an automatic fire suppression system.

The fire loading in the tunnel is minimal. If all of the combustibles ignited and were consumed the resulting fire would be about 7 minutes in duration as determined from the ASTM E–119 Time Temperature Curve. Because access to the area is limited to three hatchways the potential for accumulation of significant quantities of transient combustibles or ignition sources is considered remote. Nevertheless, the staff was concerned that if a fire did occur, it would not be detected in sufficient time for the fire brigade to intervene to limit damage. The licensee's commitment to install a smoke detection system in the area has eliminated that concern. The staff concludes that with the addition of the detection system, the limited fire hazard in the area and the restricted access, there is reasonable assurance that at least one shutdown division can be maintained free of fire damage.

9.4 Conclusion

Based on our review of the licensee's proposals, we conclude that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with Appendix R. Therefore the licensee's request for exemption from the requirements of section III.G.2 for 20 feet of separation between redundant shutdown systems and an automatic fire suppression system in the pipe tunnel should be approved.

10 CO_2 Equipment Room—Elevation 84 Feet (Areas 1 & 2 FA–DG–84F) (Licensee Exemption 15)

10.1 Exemption Requested

The licensee requested approval of an exemption from the technical requirements of Section III.G.2 of Appendix R to 10 CFR Part 50 to the extent that it requires separation of redundant shutdown systems by 1-hour fire barriers and protection by automatic fire detection and suppression systems. Specifically, redundant shutdown cables are not protected by an automatic fire suppression system.

10.2 Discussion

The physical description of this area, including perimeter construction, fire hazards, existing fire protection and configuration of safe shutdown cables is as described in Enclosure 1 to the licensee's July 15, 1988 letter.

To enhance fire safety the licensee committed to install an area-wide automatic fire detection system and to protect cables for one safe shutdown division in a 1-hour fire-rated barrier.

The licensee justified the exemption on the basis of the low fire loading, the existing protection and the proposed modifications.

10.3 Evaluation

The technical requirements of section III.G.2 are not met because of the lack of an automatic fire suppression system.

The staff was concenred that because of the absence of an area-wide fire suppression system a fire of significant magnitude could develop and damage redundant shutdown systems. However, the fire loading in the location is low. If all of the combustibles were totally consumed in fire, it would result in an equivalent fire severity of about 20 minutes as determined by the ASTM E–119 Time Temperature Curve. Because of installation of the fire detection system the staff expects that a fire, if one should occur, would be detected in its incipient stages, before significant room temperature rise occurs. The alarm from the detector would be transmitted automatically to the control room. The fire brigade would be dispatched and would extinguish the fire using portable fire fighting equipment. Pending arrival of the brigade, the 1-hour fire barrier would provide sufficient protection to assure that at least one division of safe shutdown systems would remain free of fire damage. Therefore, the absence of an automatic fire suppression system is not a safety significant.

10.4 Conclusion

Based on our review of the licensee's proposals, we conclude that the licensee's alternative fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with Appendix R. Therefore, the licensee's request of exemption from the requirements of Section III.G.2 for an automatic fire suppression system in the subject area should be approved.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions as described in section II are authorized by law and will not present an undue risk to the public health and safety, and are consistent with the common defense and security. The Commission further determines that special circumstances, as provided in § 50.12(a)(2)(ii), are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50 because the licensees alternate fire protection configuration, including the modifications where proposed, provide a level safety equivalent to that provided by compliance with Appendix R. Therefore, the Commission hereby grants the following exemptions from the requirements of section III.G of Appendix R to 10 CFR Part 50:

1. Generic exemption pertaining to non-3-hour fire-rated features in 3-hour fire barriers (License Exemption 1);

2. Lack of a fixed fire suppression system in the control room complex (Areas 1&2 FA–AB–122A) (License Exemption 2);

3. Lack of an automatic fire suppression system in the reactor plant

auxiliary equipment area, elevations 100 and 110 feet (Areas 1&2 FA–AB–100C) (Licensee Exemption 3);

4. Lack of an automatic fire suppression system in the inner piping penetration area (Areas 1&2 FA–PP–100H) (Licensee Exemption 4);

5. Lack of an automatic fire suppression system in the reactor plant auxiliary building, elevation 64 feet (Areas 1&2 FA–AB–64B) (Licensee Exemption 10);

6. Lack of an automatic fire supression system in the mechanical penetration areas, elevations 78 and 100 feet (Fire Areas 1&2 FA–MP–781) (Licensee Exemption 5);

7. Lack of complete 1-hour fire rated barriers between redundant shutdown systems and a manually acturated fire suppresssion system in lieu of an automatic system in the 460V switchgear room. (Areas 1&2 FA–AB–84A) (Licensee Exemption 6);

8. Lack of complete 1-hour fire rated barriers between redundant shutdown systems in the lower electrical penetration area (Areas 1&2 FA–EP–78C) (Licensee Exemption 8);

9. Lack of complete 1-hour fire rated barriers between redundant shutdown systems in the 4160 V switchgear room (Areas 1&2 FA–AB–64A) (Licensee Exemption 9);

10. Lack of complete 1-hour fire-rated barriers or 20 feet free of intervening combustibles between redundant systems in the reactor plant auxiliary equipment area, elevation 84 feet (Areas 1&2 FA–AB–84B) (Licensee Exemption 7);

11. Lack of complete 3-hour fire barriers between redundant shutdown systems in the RHR pump and heat exchanger areas (Areas 1&2 FA–AB–45A) (Licensee Exemption 13);

12. Lack of 20 feet of separation free of intervening combustibles between redundant shutdown systems in containment (Areas 1&2 FA–RC–78) (Licensee Exemption 12);

13. Lack of an authomatic fire suppression system and the absence of 20 feet of spatial separation between redundant systems in the pipe tunnel, elevation 84 feet (Areas 12FA–PT–84) (Licensee Exemption 14); and

14. Lack of an automatic fire suppression system in the CO_2 equipment room, elevation 84 feet (Areas 1&2 FA–DG–84F) (Licensee Exemption 15).

Based on its evaluation, the staff denies the licensee's request for exemption in the upper electric penetration area (Areas 1&2 FA–EP–100G) (Part of Licensee Exemption 4).

Pursuant to 10 CFR 51.32 the Commission has determined that the granting of these exemptions will have no significant impact on the environment (54 FR 30484).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland this 20th day of July 1989.

[FR Doc. 89–17567 Filed 7–26–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[34–27048; OCC–89–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change By The Options Clearing Corporation; relating to increasing the minimum contribution to OCC's Stock Clearing Fund

July 20, 1989.

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 June 28, 1989, The Options Clearing Corporation ("OCC") 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 proposed rule change increases, from $10,000 to $75,000, the minimum contribution to OCC's Stock Clearing Fund required of those OCC Clearing Members that clear equity options ("Stock Clearing Members"), and increases, from $50,000 to $75,000, the minimum contribution to OCC's Non-Equity Securities Clearing Fund required of those OCC Clearing Members that clear non-equity options ("Non-Equity Securities Clearing Members").

The proposed rule change also permits OCC, in its discretion, to charge losses arising from Clearing Member defaults to its retained earnings as well as to its current earnings, in lieu of charging such losses pro rata to the clearing fund contributions of non-defaulting Clearing Members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase, from $10,000 to $75,000, the minimum contribution to OCC's Stock Clearing Fund required of OCC Clearing Members that clear equity options ("Stock Clearing Members"), and to increase, from $50,000 to $75,000, the minimum contribution to OCC's Non-Equity Securities Clearing Fund required of OCC Clearing Members that clear non-equity options ("Non-Equity Securities Clearing Members").

The proposed rule change also permits OCC, in its discretion, to charge losses arising from Clearing Member defaults to its retained earnings as well as to its current earnings, in lieu of charging such losses pro rata to the clearing fund contributions of non-defaulting Clearing Members.

The proposed rule change is a result of OCC's recently-completed review of the adequacy of its backup system, which it commenced following the events surrounding the October 1987 market break. It is OCC's backup system that provides the financial integrity behind OCC's guaranty of exchange-listed options. Critical components of the backup system are the two clearing funds maintained by OCC and funded by its Clearing Members.

The purpose of the clearing funds it to make good losses sustained by OCC as a result of the failure of a Clearing Member to meet its obigations to OCC.[1]

[1] The clearing funds may also be drawn upon, in certain circumstances, to reimburse OCC for losses sustained as a result of the failure of a bank or a securities or commodities clearing organization to perform any obligation to OCC. *See* Article VIII, Section 5(c).

The clearing funds are viewed as a secondary line of defense against such failures, the first being a defaulting Clearing Member's margin deposits. If a Clearing Member's margin deposits are insufficient to cover its obligations to OCC, then that Clearing Member's clearing fund deposits may be accessed. Once the funds of the defaulting Clearing Member are exhausted, then OCC may reimburse itself for any remaining losses by charging the losses, on a pro rata basis, to the clearing fund contributions of non-defaulting Clearing Members.[2]

The amount of each Clearing Member's contribution to the clearing funds is calculated monthly. Under the present contribution formula under Rule 1001, each Stock Clearing Member is required to contribute to the Stock Clearing Fund, and each Non-Equity Securities Clearing Member is required to contribute to the Non-Equity Securities Clearing Fund, its proportionate share of an amount equal to seven percent of the average daily aggregate margin requirement in respect of equity or non-equity option contracts (as the case may be) outstanding during the preceding calendar month.[3] In no event, however, can a Stock Clearing Member's contribution be less than $10,000, nor a Non-Equity Securities Clearing Member's contribution be less than $50,000.

OCC has attempted to set minimum clearing fund contributions at reasonable levels that in its judgment maintain the integrity of OCC's guaranty and the confidence of the financial community, while at the same time reflect the clearing funds' function as secondary protection against financial exposure from Clearing Member default. The last revision to clearing fund minimums was in late 1984, when OCC *reduced*, from $100,000 to $50,000, the minimum contribution requirements to the Non-Equity Securities Clearing Fund. *See* Securities Exchange Act Release No. 34–21437 (October 31, 1984).

At the time, however, OCC believes that an increase in minimum clearing fund contributions is necessary to protect itself, its Clearing Members and the public in the event of a repeat of the unprecedented market volatilities experienced in the aftermath of the October 1987 market break. The events following that market break caused OCC for the first time in its history to impose a pro rata charge to the clearing fund contributions of all its Clearing Members to reimburse itself for losses sustained as a result of the failure of a single Clearing Member.

Increases in contract volumes and option premiums similarly justify an increase in minimum clearing fund contribution requirements. Contract contract volumes for combined equity and non-equity options increased from 776.4 thousand (on an average daily basis) as of the end of 1984, to an average of 1.012 million (on an average daily basis) for the period 1985 through 1988—a 30.3 percent increase. While average premiums per contract for equity options remained essentially unchanged ($284.40 per contract for 1984 versus an average of $273.61 for the period 1985 to 1988), average non-equity option premiums increased over 50% from the last time that clearing fund minimums were adjusted ($247.18 per contract in 1984 versus an average of $371.12 per contract for the period 1985 to 1988).

Finally, OCC notes that the $10,000 minimum clearing fund contribution backing equity options has been unchanged since OCC's inception in 1972,[4] and has therefore not reflected the increases since that time in the size, complexity and volatility of the options markets, or the effects of inflation.

Consequently, amendments to Article VIII, Section 2 of OCC's By-laws and to Rule 1001(a) increase to $75,000 the minimum contribution required of Stock Clearing Members to OCC's Stock Clearing Fund. Amendments to Article VIII, Section 2 of OCC's By-laws and to Rule 1001(b) also increase to $75,000 the minimum contribution required of Non-Equity Securities Clearing Members to the Non-Equity Securities Clearing Fund.[5]

Under the current version of Article VIII, Section 2 of the By-laws, new Clearing Members are subject to an inital contribution requirement to the respective clearing funds equal to the minimum clearing fund contribution requirement or "such greater amount as may be fixed by the Board of Directors in its discretion at the time such Clearing Member's application is approved." The amount of that initial contribution remains in effect for three months, after which time the Clearing Member's required contribution is set by Rule 1001. Rule 1001 requires that a Clearing member maintain at least the minimum contribution requirement in the clearing funds, or, if greater, its proportionate share of an amount equal to seven percent of the average daily aggregate margin requirement in respect of equity or non-equity option contracts (as the case may be) outstanding during the preceding calendar month.

Therefore, Article VIII, Section 2 presently gives the Board no discretion, during a Clearing Member's first three months of membership, to increase that Clearing Member's required clearing fund contributions even where it becomes clear that by virtue of its trading activity its required contribution to the clearing funds would be greater if calculated under the alternative calculation of Rule 1001. Consequently, Article VIII, Section 2 is further amended to give OCC's Board of Directors the discretion to require new Clearing Members, at any time, to calculate their minimum clearing fund contributions according to Rule 1001.

Finally, while Article VIII, Section 5(e) of the By-laws presently gives OCC the discretion to charge off losses arising from Clearing Member, bank or clearing organization defaults to OCC's current earnings, in lieu of charging the losses pro rata to the clearing fund contributions of non-defaulting Clearing Members, it does not, by its terms, permit a corresponding charge-off to OCC's retained earings. The By-law is amended to permit OCC to access retained earnings as well as current earnings, giving OCC additional flexibility in dealing with losses.

* * * * *

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934 (the "Act") because it will provide additional financial integrity of OCC's guaranty of the clearance and settlement of exchange-traded options.

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[2] OCC may also access the Non-Equity Securities Clearing Fund to the extend that the Stock Clearing Fund proves inadequate, and vice versa.

[3] Each Clearing Member's proportionate share is a percentage based on the daily average number of stock or non-equity securities options (as the case may be) held by that Clearing Member in open long or short positions with OCC during the preceding calendar month, in relation to the daily average number of all stock or non-equity securities options (as the case may be) held by all Clearing Members in open long or short positions with OCC during that period. *See* Rule 1001(c)

[4] Before the advent of options trading on non-equity securities, OCC maintained a single clearing fund backing equity options, with a $10,000 minimum contribution requirement. In 1981, the clearing funds were split into two funds—the Stock Clearing Fund for equity options, and the Debt Securities Clearing Fund (the precursor of the Non-Equity Securities Clearing Fund) for options on non-equity securities. Both funds carried a minimum contribution requirement of $10,000. *See* Securities Exchange Act Release No. 18015 (August 6, 1981).

[5] As presently written, Article VIII, Section 2 of OCC's By-law incorrectly reflects a $100,000 minimum contribution requirement to the Non-Equity Securities Clearing Fund, whereas Rule 1001(b) correctly reflects the $50,000 minimum requirement. The discrepancy between the By-law and the rule was created inadvertently in OCC's last revision to clearing fund minimums. *See* SR-OCC–84–17. This proposed rule change will cure that discrepancy.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change and none have been received by 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 SR–OCC–89–06 and should be submitted by August 17, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–17531 Filed 7–26–89; 8:45]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89–058]

National Offshore Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the National Offshore Safety Advisory Committee (NOSAC). The meeting will be held on August 17, 1989 in Room 8236 of the Department of Transportation Headquarters (NASSIF) Building, 400 7th Street, SW., Washington, DC. The meeting is scheduled to begin at 8:30 a.m. and end at 4:00 p.m. The agenda for the meeting consists of the following:

(1) Liftboat Personnel Licensing
(2) MODU Licensing Rulemaking
(3) Citizenship Requirements
(4) Offshore Supply Vessels Including Liftboats
(5) Special Cargo Requirements for Benzene
(6) Safety Standards for Vapor Control
(7) Offshore Supply Vessels Including Well Stimulation Vessels
(8) Implementation of Emergency Evacuation Plan Regulations
(9) Tonnage Regulations
(10) OCS Activities
(11) Diving Regulations

Attendance is open to the public. With advance notice, and at the discretion of the Chairman, if time permits, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of NOSAC no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee. To ensure distribution to each member of the Committee, 30 copies of written material should be submitted to the Executive Director no later than August 11, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Hammel, Executive Director, National Offshore Safety Advisory Committee, U.S. Coast Guard Headquarters (G–MP–2), 2100 2nd Street, SW., Washington, DC 20593–0001, (202) 267–1483.

Dated: July 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89–17512 Filed 7–26–89; 8:45 am]

BILLING CODE 4910–14–M

[CCD 89–0541]

Specific Trade Exemptions; Moratorium on New Issuances and Modifications

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Due to recent casualities involving tankships, the Coast Guard is reviewing existing regulations and policies concerning tanker construction and operations. Under 33 CFR Part 157, Subpart F, certain tankers may currently be granted exemptions from specific construction or equipment requirements if certain operating conditions are met. During this review, the Coast Guard will not issue new or modified exemptions under this Subpart. Vessels currently operating under existing exemptions may continue to operate under the terms of those exemptions.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen M. Shapiro, Merchant Vessel Inspection and Documentation Division, U.S. Coast Guard (G–MVI–2), Washington, DC 20593–0001, (202) 267–1181.

SUPPLEMENTARY INFORMATION: 33 CFR 157.10a contains requirements that oil tankers over 40,000 deadweight tons be fitted with segregated or dedicated clean ballast tanks, if carrying product oils, and segregated ballast tanks or a crude oil washing system, if carrying crude oil. 33 CFR 157.10c contains these same requirements for oil tankers between 20,000–40,000 deadweight tons. 33 CFR Part 157, Subpart F, which was published in the Federal Register on January 15, 1981 (46 FR 3510), permits those vessels described above which are in specific domestic trades to be exempted from the above requirements provided certain conditions are met.

To obtain an exemption under Subpart F, and owner must submit an application to the Coast Guard specifying the cargoes to be carried and the ports where cargo will be loaded. These ports must have adequate approved facilities to handle all non-segregated ballast and cargo residues that may be off-loaded. An adequate

facility must have a valid National Pollutant Discharge Elimination System (NPDES) permit to process the cargo residues and dirty ballast equal to 30 percent of the vessel's deadweight. The application must show that such facilities are available and describe the procedures that will be used to discharge to the facilities. The Coast Guard reviews completed applications and issues a written grant or denial of the requested exemption.

In view of the recent casualties involving tankships, the Coast Guard is re-evaluating the regulations and policies for tanker design and operations, including the exemption provisions of Subpart F. While this evaluation is in progress, no new or modified exemptions will be issued. If, after this evaluation is complete, the Coast Guard determines that changes to existing rules may be necessary, they will be published as proposed rules in the **Federal Register**.

Dated: July 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-17511 Filed 7-26-89; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

Meetings of Pipeline Safety Advisory Committees

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, U.S.C. App. 1), notice is hereby given of the following meetings of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee. Each meeting will be in Room 4234-4238, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

On September 12, 1989, at 9:00 a.m., the Technical Pipeline Safety Standards Committee will meet to discuss and vote on the technical feasibility, reasonableness, and practicability of proposed rules regarding:

- Determining the Extent of Corrosion on Gas Pipelines (54 FR 27081, June 27, 1989)
- Gas Gathering Line Definition
- Pipeline Inventory
- Gas Detection and Monitoring in Compressor Station Buildings

In addition, the committee will informally discuss an Advance Notice of Proposed Rulemaking regarding transportation of hydrogen sulfide by pipeline (54 FR 24361, June 7, 1989).

On September 13, 1989, at 9:00 a.m., the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee will meet jointly to discuss studies in progress regarding the use of internal inspection and flow restriction devices. (See 54 FR 20945 and 20948; May 15, 1989). Also, at this joint meeting, the Administrator of RSPA will lead a general discussion of suggestions from committee members to improve the pipeline safety program.

On September 13, 1989, after the joint meeting, the Technical Hazardous Liquid Pipeline Safety Standards Committee will meet to discuss and vote on the technical feasibility, reasonableness, and practicability of proposed rules regarding:

- Transportation of Carbon Dioxide by Pipeline
- Operation and Maintenance Procedures for Pipelines
- Pipeline Inventory

Each meeting will be open to the public, but attendance will be limited to the space available. With approval of the Executive Director of the Committees, members of the public may present oral statements of the subjects. Due to the limited time available, each person who wants to make an oral statement must notify Linda Craver, Room 8417, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-1640, not later than September 8, 1989, to the topics to be addressed and the time requested to address each topic. The presiding officer may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the committees before or after any meeting.

Dated: July 21, 1989.

Cesar De Leon,

Executive Director of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee.

[FR Doc. 89-17513 Filed 7-26-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 21, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Recuction 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, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0005
Form Number: ATF F 3210.1
Type of Review: Extension
Title: Application for Restoration of Firearms and/or Explosives Privileges
Description: Certain categories of persons are prohibited from possessing explosives and firearms. This form is the basis for ATF investigating the merits of an applicant to have his rights restored as provided in Federal law.
Respondents: Individuals or households, Businesses or other for-profit, Small Businesses or organizations
Estimated Number of Respondents: 5,000
Estimated Burden Hours Per Response: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,500 hours

OMB Number: 1512-0098
Form Number: ATF F 5520.2 and ATF REC 5520/1
Type of Review: Extension
Title: Annual Report of Concentrate Manufacturers; Usual and Customary Business Records—Volatile Fruit Flavor Concentrate Plants
Description: Volatile Fruit Flavor Concentrate manufacturers are regulated because the products they produce contain ethyl alcohol which can be diverted to untaxpaid beverage use. Records required are usual and customary business records of receipt and transfer. The required annual report provides a basis for statistics concerning this industry. Records and the report are audited to protect the revenue.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 90
Estimated Burden Hours Per Response/ Recordkeeping: 20 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 30 hours

OMB Number: 1512-0195
Form Number: ATF F 5110.25
Type of Review: Extension
Title: Application for Operating Permit Under 26 U.S.C 5171(d)

Description: ATF F 5110.25 is completed by proprietors of distilled spirits plants who engage in certain specified types of activities. ATF regional office personnel use the information on the form to identify the applicant, the location of the business and the types of activities to be conducted.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 80
Estimated Burden Hours Per Response: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 20 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 3001, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 89–17574 Filed 7–26–89; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 21, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, 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, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0142
Form Number: 2220
Type of Review: Revision
Title: Underpayment of Estimated Tax by Corporations
Description: Form 2220 is used by corporations to determine whether they are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty. The IRS uses Form 2220 to determine if the penalty was correctly computed.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 700,000
Estimated Burden Hours Per Response/ Recordkeeping: Recordkeeping—63 hours 22 minutes; Learning about the law or the form—1 hour 26 minutes; Preparing the form—4 hours 23 minutes; Copying, assembling, and sending the form to IRS—32 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 19,289,108 hours

OMB Number: 1545–0231
Form Number: 6478
Type of Review: Revision
Title: Credit for Alcohol Used as Fuel
Description: Internal Revenue Code section 38(b)(3) allows a credit against income tax for businesses that sell or use alcohol mixed with other fuels or sold straight. Form 6478 is used to compute this alcohol fuel credit.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 9,000
Estimated Burden Hours Per Response/ Recordkeeping: Recordkeeping—8 hours 22 minutes; Learning about the law or the form—46 minutes; Preparing the form—1 hour 52 minutes; Copying, assembling, and sending the form to IRS—16 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 101,430 hours

OMB Number: 1545–0782
Form Number: None
Type of Review: Extension
Title: Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands
Description: The Tax Reform Act of 1986 repealed the mandatory reporting and recordkeeping requirements of section 934(d) (1954 Code). The prior exception to the general rule of section 934 (1954 Code) to prevent the Government of the Virgin Islands from granting tax rebates with regard to taxes attributable to income derived from sources within the U.S. was contingent upon the taxpayers' compliance with the reporting requirement of section 934(d). The changes imposed by the Tax Reform Act of 1986 should reduce the number of responses to approximately 500.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents: 500
Estimated Burden Hours Per Response/ Recordkeeping: 10 hrs. 14 mins.
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 184 hours

OMB Number: 1545–1036
Form Number: 8716
Type of Review: Revision
Title: Election to Have a Tax Year Other Than a Required Tax Year
Description: Filed by partnerships, S corporations, and personal service corporations, under section 444(a), to retain or to adopt a tax year that is not a required tax year. Service Centers accept Form 8716 and use the form information to assign master-file codes that allow the Center to accept the filer's tax return filed for a tax year (fiscal year) that would not otherwise be acceptable.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 40,000
Estimated Burden Hours Per Response/ Recordkeeping:

	8716	8716 (Schedule H)
Recordkeeping	2 hrs. 23 mins	5 hrs. 59 mins.
Learning about the law or the form.	2 hrs. 35 mins	47 mins.
Preparing and sending the form to IRS.	2 hrs. 44 mins	56 mins.

Frequency of Response: Nonrecurring, one-time filing to elect a nonrequired tax year
Estimated Total Recordkeeping/ Reporting Burden: 312,250 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 89–17575 Filed 7–26–89; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 143
Thursday, July 27, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, August 1, 1989, 10:00 a.m.

PLACE: 999 E. Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, August 3, 1989, 10:00 a.m.

PLACE: 999 E. Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Administrative Matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Information Officer, Telephone: 202–376–3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 89–17724 Filed 7–25–89; 2:54 pm]
BILLING CODE 6715-01-M

PAROLE COMMISSION

RECORD OF VOTE OF MEETING CLOSURE

(Public Law 94–409) (5 U.S.C. 552b)

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine o'clock am. on Wednesday, June 19, 1989 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 12:30 p.m. The purpose of the meeting was to decide approximately 7 appeals from National Commissioners' decisions pursuant to 28 CFR 2.27. Eight Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Cameron M. Batjer, Jasper Clay, Jr., Vincent Fechtel, Jr., Carol Pavilack Getty, Victor M.F. Reyes, Daniel R. Lopez, and G. MacKenzie Rast.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: July 20, 1989.

Benjamin F. Baer,
Chairman, U.S. Parole Commission.

[FR Doc. 89–17733 Filed 7–25–89; 3:32 pm]
BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 54, No. 143
Thursday, July 27, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

Correction

In notice document 89-15772 appearing on page 28458 in the issue of Thursday, July 6, 1989, make the following correction:

In the third column, in the fourth complete paragraph, in the second line, "Board College" should read "Bard College".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Vanderbilt University et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 89-15780 appearing on page 28459 in the issue of Thursday, July 6, 1989, make the following correction:

In the 2nd column, in the 4th complete paragraph, in the 11th line, "if" should read "it".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP82-55-044]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

Correction

In notice document 89-16984 appearing on page 30460 in the issue of Thursday, July 20, 1989, make the following correction:

In the first column, in the document's heading, the Docket No. should read "RP82-55-044".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[PF520; FRL-3610-9]

Petition Proposing Revocation of Food Additive Tolerances

Correction

In notice document 89-15560 beginning on page 27700 in the issue of Friday, June 30, 1989, make the following correction:

On page 27701, in the 1st column, in the 1st complete paragraph, in the 11th line, after "requires"insert "that the current section 409 regulations that permit".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51734; FRL-3611-7]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 89-15894 beginning on page 28471 in the issue of Thursday, July 6, 1989, make the following corrections:

1. On page 28471, in the third column, under **DATES**, in the first line, "P 89-681" should read "P 89-691".

2. On page 28475, in the second column, in the second complete paragraph, in the fourth line "LC50 10" should read "LC50 > 10".

3. On the same page, in the third column, under **P 89-764**, under *Toxicity Data.*, in the second line, "LD505.0 G/KG" should read "LD50 > 5.0 G/KG".

4. On page 28476, in the first column, under **P 89-771**, under *Toxicity Data.*, in the second line, "LD505,000 MG/KG" should read "LD50 > 5,000 MG/KG".

5. On the same page, in the same column, in the same paragraph, in the third line, "LD502,000 MG/KG" should read "LD50 > 2,000 MG/KG".

6. On the same page, in the same column, in the same paragraph, in the fifth line, "LC501,000 MG/L" should read "LC50 > 1,000 MG/L".

7. On the same page, under **P 89-775**, under *Chemical*, in the third line, "3-(1-methylethenyl)" should read "3-(1-methylethenyl)".

8. On the same page, in the same column, in the last line, "LD505.0 G/KG" should read "LD50 > 5.0 G/KG".

9. On the same page, in the second column, in the first line, "LD502 G/KG" should read "LD50 > 2 G/KG".

10. On the same page, in the same column, in the second line, "LC502.87 MG/L" should read "LC50 > 2.87 MG/L".

11. On page 28477, in the first column, under **P 89-794**, under *Toxicity Data.*, in the third line, "LD50 > 2 ML/KG" should read "LD50 > 20 ML/KG".

12. On the same page, in the same column, under **P 89-797**, under *Manufacturer*, in the first line, "Aldrick" should read "Aldrich".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 887

[Docket No. R-88-1332; FR-2170]

Section 8 Housing Vouchers

Correction

In rule document 88-20078 beginning on page 34372 in the issue of Tuesday, September 6, 1988, make the following correction:

§ 887.101 [Corrected]

On page 34392, in the second column, in the third line, "(3)" should read "(2)".

BILLING CODE 1505-01-D

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. 1117]

Eagle Pass, Tx; Application for Bridge Permit

Correction

In notice document 89-16767 appearing on page 30129 in the issue of Tuesday, July 18, 1989, make the following correction:

In the first column, in the fourth paragraph, "(*insert date 30 days from publication in* **Federal Register**)" should read "August 17, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[BS-Ap-No-2836]

Illinois Central Railroad Co. and Consolidated Rail Corp.; Public Hearing

Correction

In notice document 89-16485 appearing on page 29813 in the issue of Friday, July 14, 1989, the subject heading should read as it appears above.

BILLING CODE 1505-01-D

Federal Register

Thursday
July 27, 1989

Part II

Federal Election Commission

11 CFR Parts 100, 9004 and 9034

Loans From Lending Institutions to Candidates and Political Committees; Notice of Proposed Rulemaking and Request for Comments

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 9004, and 9034

[Notice 1989-11]

Loans From Lending Institutions to Candidates and Political Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Federal Election Commission is considering revising its rules on when loans from lending institutions (such as State banks, federally-chartered banks, savings and loan associations, and credit unions) to federal candidates and political committees, are considered to be made on a basis which assures repayment. As part of its revision, the Commission is considering supplements to Schedule C and Schedule C-P, to facilitate Commission monitoring and greater public disclosure of the terms of such loans.

Please note that the draft rules that follow do not represent a final decision by the Commission. Accordingly, the Commission seeks comments on these rules, especially with respect to their implementation. The Commission also seeks comments on the questions presented in this Notice and welcomes comments that present alternative approaches. A public hearing has been scheduled to obtain further comments on the proposed rules and issues discussed in this Notice. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before September 15, 1989. The Commission will hold a hearing at 10:00 a.m. on October 4, 1989. Persons wishing to testify at the hearing should so indicate in their written comments.

ADDRESSES: Comments and requests to appear should be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463. The hearing will be held in the Commission's Ninth Floor Hearing Room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 376-5690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act of 1971, ("FECA" or "the Act"), exempted from the definition of contribution a loan of money by a national or State bank "made in accordance with the applicable banking laws and regulations and in the ordinary course of business." 18 U.S.C. 591(e)(1) (1971). In 1976, this exemption was transferred to 2 U.S.C. 431(e)(5)(g). The 1979 FECA Amendments extended the loan exemption to include other lending institutions and also sought to clarify when a loan is made in the ordinary course of business by adding, *inter alia*, the requirement that any such loan "shall be made on a basis which assures repayment * * *" 2 U.S.C. 431(8)(B)(vii)(II).

This phrase has become a focal point in the Commission's administration of the Act's loan provisions through the enforcement process and advisory opinions. In mid-1986, the Commission determined to explore the possibility of drafting more specific regulatory standards on this issue. At that time, this project was part of proposed changes to Title 26; subsequently, the Commission decided to consider bank loans separately. Thus, the Commission has published two Notices seeking public comment on possible approaches in this area.[1]

Both of these Notices explained the questions at issue. In particular, both Notices indicated that problems have arisen regarding the application of the statutory requirement that a bank loan be "made on a basis which assures repayment." *See* 2 U.S.C. 431(8)(B)(vii)(II) and 11 CFR 100.7(b)(11) and 100.8(b)(12). The legislative history of the FECA makes it evident that while banks are permitted to make loans to federal candidates and political committees, Congress did not intend such loans to become a vehicle for banks to make prohibited contributions. S. Rep. No. 229, 92d Cong., 1st Sess. 121 (1971). *See also* 2 U.S.C. 441b(a). The Commission, in administering this provision, is therefore seeking to balance established lending policy with the requirements of the FECA. To determine how it can best accomplish this goal, the Commission, in its Notices, invited public comment on three possible approaches to interpreting the phrase "made on a basis which assures repayment."

The first approach would have required candidates and political committees to secure loans by pledging traditional types of collateral, such as real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable and cash on deposit. The second approach would have allowed candidates and committees to pledge non-traditional types of collateral such as future receipts of federal payments for presidential candidates ("public financing payments") under 11 CFR Part 9004 or Part 9034, future receipts of contributions and future receipts of interest income for all federal candidates. Candidates must deposit these funds, upon receipt, in a separate "collateral account," for this non-traditional collateral to constitute an adequate assurance of repayment. The final approach discussed in the Notices would have required the Commission to revise its current course. Under this approach, the statute would have been read as requiring only that a written instrument evidence the loan, and that the loan include a due date or amortization schedule in order to comply with the requirement that the loan be made on a basis which assures repayment.

The Commission has reviewed the comments it has received along with relevant advisory opinions, past enforcement actions and the legislative history of the Act. The comments received on the three approaches have demonstrated both the positive and negative aspects of these initial concepts.

The first approach, which would have required a candidate or political committee to secure a loan with some form of traditional collateral, has merit in that it would allow the Commission to determine with a level of exactitude whether a loan is made on a basis which assures repayment. With this approach, however, unless candidates or political committees have extensive personal holdings, they are limited by the lack of available collateral. In addition, there are some limitations on the ability of candidates and other persons to guarantee loans. In the case of publicly-financed presidential candidates, the Act limits the amount a candidate can spend from personal funds; any personal guarantees made on the loan would

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[1] On August 5, 1986, the Commission published a Notice of Proposed Rulemaking on Public Financing. 51 F.R. 28154. In that Notice, the Commission raised its concerns about loans from lending institutions and sought comment on several alternative applications of the statutory phrase "made on a basis which assures repayment" in the context of publicly funded campaigns as well as congressional candidates and other political committees. The Commission received fifteen comments that responded to this aspect of the August Notice. In addition, the Commission's public hearing on the public financing proposals addressed some aspects of the loan question.

On January 22, 1987, the Commission published a second Notice that focused solely on the loan issue. 52 F.R. 2416. This notice analyzed the comments received to date, sought further comment on the alternatives presented in the August Notice, and announced a hearing date of March 11, 1987. Although the Commission received two additional comments in response to the second Notice, it did not receive any requests to testify and, therefore, it cancelled the public hearing.

count toward this limit. *See* 26 U.S.C. 9004(d) and 9035. While persons other than the debtor can guarantee the loan, in the context of bank loans to candidates and political committees such loan guarantees are subject to the Act's contribution limits and prohibitions. *See e.g.*, 2 U.S.C. 441a(a) and 441b.

The second approach was a modified version of the traditional approach. It would have permitted candidates and political committees to use collateral which is more widely available to them. These forms of collateral include a candidate's reasonable expectation of future contributions, public funds or interest income. While bank regulatory agencies do not see any problem with these types of non-traditional collateral, both the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) would consider loans made under these circumstances as unsecured. According to these agencies, such loans could be compared to the loans that many banks currently make to collegiate athletes and students based on the expectancy that upon graduation and matriculation into their respective careers their income level will permit them to repay the loan. Although this approach requires safeguards to be effective, it does give political borrowers flexibility to use collateral that is available to them.

One method of insuring that a loan collateralized in this manner is repaid would be to require that future contributions or other future funds received be deposited into a separate collateral account. Although bankers would have to depend on the candidate's or committee's projected calculations of future receipts, the establishment of an account at the lending institution would help bank officials monitor the status of the loan. Furthermore, the lender would be put in a better position at the time a loan is made if the loan agreement specifies the types and amounts of funds that are to be used in retiring the debt, and specifies payment intervals.

The third approach would have required only that a written instrument evidence the loan and that the loan include a due date or amortization schedule. This approach does not appear to adequately address the issue. While some commenters have warned the Commission about substituting its judgment for that of bank officials or lending regulatory agencies, others have noted that the Act contemplates something more than the presence of these elements.

Proposed Rules

The Commission is now seeking comment on proposed guidelines for determining when bank loans are made on a basis which assures repayment. In addition, at the end of the proposed rules, the Commission has included language to illustrate the discussion of the insider loan analogy in the section on *Other Related Issues*. Finally, the Commission is considering whether to require committees and candidates to file a supplement to Schedule C and Schedule C–P signed by the lender, which would provide more complete disclosure of the terms and conditions of bank loans.

The proposed rules would incorporate elements of each of the three approaches discussed above. They would permit candidates and political committees to obtain loans from lending institutions by pledging traditional types of collateral, as well as by pledging future receipts of public financing payments, contributions and interest income. In addition, absent either traditional collateral or other types of non-traditional collateral, the proposed rules would allow candidates and political committees to rebut the presumption that such a loan was not made on a basis which assures repayment by demonstrating that an unsecured loan is made on another basis which assures repayment. Because 11 CFR 100.7(b)(11) and 100.8(b)(12) contain the bank loan rules, parallel provisions have been drafted for both sections. *See* proposed 11 CFR 100.7(b)(11)(i), (ii) and 100.8(b)(12)(i) and (ii).

Proposed subparagraphs (i)(A) of the two parallel regulations would set forth the general rule that if a financial institution relies on traditional collateral in approving a loan, it must perfect a security interest in that collateral. Guarantors and co-signers would continue to be limited by the prohibitions and contribution limits of the FECA. The Commission notes that the proposed list of types of traditional collateral is not exhaustive and welcomes comments on additional types of collateral and possible secondary sources of repayment that should be considered. The Commission also welcomes suggestions on methods to insure that lenders perfect a security interest in such types of collateral. Furthermore, the Commission requests comments on the use of the term "perfect a security interest" as applied to real estate, securities, the types of property noted in Article 9 of the Uniform Commercial Code and other kinds of traditional collateral. Is this term broad enough to cover the rights or powers that banks can assert to ensure their recourse to all these different types of assets?

Proposed subparagraphs (i)(B) would permit candidates and political committees to obtain loans from financial institutions by pledging future receipts of contributions and interest income. Presidential candidates receiving or expecting to receive public financing pursuant to 11 CFR Part 9004 or 9034 also would be able to pledge future public funding payments. The Commission proposes that loans obtained by this method would be subject to a loan agreement requiring that when the committees receive such pledged collateral they deposit it in a separate account for use in retiring the debt. In the case of candidates receiving public financing, the proposed rules would require such candidates to authorize the Secretary of the Treasury to directly deposit public financing payments used as collateral into this account. In addition, the amount of the loan or loans obtained by candidates and political committees on the basis of nontraditional collateral could not exceed the reasonable expectation of the future receipts pledged as a primary or secondary source of repayment.

One suggestion, which is not incorporated in the proposed rules, is to consider a loan as made on a basis which assures repayment even if the candidate or political committee does not have a separate account with the lending institution that extended the loan. The Commission requests comments on whether an assignment, executed by the candidate or political committee, would ensure that the lending institution has recourse to repayment of the loan, even though pledged funds would not be deposited directly into an account at the lending institution.

It should be noted that most of the factors applicable to congressional candidates relate to publicly-financed presidential candidates; however, the unique circumstances of pledging public funds warrant some specially tailored proposals. Under current 11 CFR 9003.4(b) a presidential candidate may obtain a loan from a lending institution, in accordance with the requirements of 11 CFR 100.7(b)(11), for certain permisible expenses incurred prior to the receipt of public financing payments for the general election, or prior to the beginning of the expenditure report period. Examples of permissible expenses are: expenditures for establishing financial accounting systems, expenditures for organizational planning, and expenditures for polling.

Major party presidential candidates who receive public financing equal to their full entitlement (that is, the same amount as their expenditure limitation under 11 CFR 110.8) must make full repayment of both the principal and interest on such loans within 15 days after receiving public financing.

The proposed rules would not change the requirements outlined above for loans that are based on anticipated payments for general election financing. These provisions would remain in force to govern those loans where general election payments have been pledged. The Commission is proposing, however, to revise 11 CFR 9004.4(a)(2), which regulates the use of federal funds, to require that public financing payments be used to repay loans from lending institutions when such payments are pledged as collateral for the loans. Currently, this section does not require such repayment, but rather makes such repayment permissive. Section 9004.4(a)(2) would continue to cross-reference § 100.7(b)(11), which, as proposed, would also state the repayment requirement. The Commission proposes a parallel revision for 11 CFR 9034.4(a)(1), which governs the use of public financing payments by presidential primary candidates.

Proposed paragraphs (ii) of proposed 11 CFR 100.7(b)(11) and 100.8(b)(12) would state that when a loan is not obtained using one of the methods described in proposed paragraphs (i), there arises a rebuttable presumption that the loan was not made on a basis which assures repayment. Candidates and political committees would then be required to demonstrate that such an unsecured loan was made on some other basis which assures repayment. Otherwise, the presumption will stand, and the loan will not be considered to have met the statutory standard "made on a basis which assures repayment."

This provision will permit some flexibility for candidates and political committees that are in situations where the methods of proposed paragraphs (i) for obtaining loans are too restrictive to permit the consideration of otherwise bona fide loans. By incorporating the flexibility of this "other basis" provision, as well as the non-traditional collateral method presented above, the Commission is seeking to assure that candidates and political committees with varying resources have a broader range of options to permit them to take advantage of the Act's loan provisions. At the same time, the Commission wants to provide sufficient guidance to deter abuses which could result in impermissible contributions. The Commission welcomes comments on whether this flexible approach, or some other approach, would best achieve a satisfactory balance of these competing goals.

Reporting Loans

In addition to the proposed rules, the Commission is also considering developing a supplement to Schedule C, and a supplement to Schedule C–P, in order to improve Commission monitoring and public disclosure of loans made by banks and other lending institutions. The Commission has included two draft forms at the conclusion of the Supplementary Information which have been prepared as examples of the kinds of information the Commission might seek. Please note that the draft forms have been prepared to help determine how disclosure of bank loans could be improved. Although the forms are not presented in any final layout or format, the Commission is interested in comments on the categories of information requested. Candidates and political committees could be required to file one of these forms, on a one-time basis per loan, at the time the loan is first reported to the Commission. Schedule C, or C–P, which provides information on loan sources, amounts, balances, dates, due dates, interest rates, and whether loans are secured, would continue to be required as well. The supplemental forms under consideration would elicit additional information on the types and values of collateral pledged, interests secured in the collateral, and dates when depository accounts for pledged contributions and public financing payments were established. If the candidates or political committees pledged neither traditional nor non-traditional collateral, or if they pledged an insufficient amount, the form would require the candidates or committees to show that the loan was made on another basis which assures repayment.

In addition, a separate section on the form would be directed to the lender. This section would require the lender to confirm the information that the candidate or committee gave regarding the extension of the loan. Also, the lender would be asked to state that the loan was made at an interest rate that is usual and customary, in accordance with the lender's usual policies and practices, and that, in the view of the lending institution, the loan was made on a basis which assures repayment. This proposal is based on the idea that committees have a reporting obligation but lenders are in the best position to state whether a loan has been made in accordance with standard practice. The Commission is seeking comment on this proposal, specifically on the proposal requiring lenders to make these statements. One way for the Commission to approach this would be to require the candidate or political committee to obtain the lender's signature on the loan disclosure schedule in order for the loan to be considered made on a basis which assures repayment.

One commenter who responded to the August 5, 1986 Notice suggested that candidates and political committees should be required to attach a copy of the loan agreement to the report disclosing the loan. Accordingly, the Commission is considering such a requirement. In addition, the Commission is also considering requiring the filing of any related security agreement(s), promissory note(s), letter(s) authorizing direct payments and other pertinent documents. Further, the Commission welcomes comments on whether to require committees to prepare a cash flow projection or other financial plan, when future receipts are pledged as a source of repayment, and whether committees should submit such plans to the Commission as part of the additional documentation requirement. The Commission is seeking comments on these possible reporting requirements.

Other Related Issues

The Commission also welcomes comments on several other related issues. For example, the Commission seeks comments concerning the practicality of analogizing political loans to loans a bank makes to its officers or board of directors. Banking regulations currently require that these loans be made on the same basis, terms and other conditions as loans made to other borrowers. These "insider" loans must be approved by the institution's board of directors and so noted in the board's minutes. *See* 12 CFR 215.4(b)(1), 2; 563.43(b)(1), (2); and 337.3(b). Banking regulatory agencies noted that analogizing "insider" loans and political loans would allow the Commission to more closely scrutinize political loans.

Language illustrating the use of insider loan banking regulations can be found under a separate heading at the end of the proposed rules. This language borrows elements of the Title 12 regulations commonly used to evaluate insider loans. These requirements are that the loan must be made in the ordinary course of business, must "not involve more than the normal risk of collectibility or present other unfavorable features," and must "not

exceed the loan amount which would be available to members of the general public of similar credit status applying for loans." 12 CFR 563.43(b)(1).

The need for specific regulation of insider loans may be comparable to the need for specific regulation of loans to candidates. Insider loan regulations prevent self-dealing and favoritism from undermining established lending rules. Candidate loan regulations should similarly prevent political favoritism from undermining lawful lending practices. While the Commission would not prevent candidates from going to friendly banks, it can attempt to discourage favoritism from overriding ordinary lending terms or corrupting an assurance of repayment. Comments are requested on whether this approach, as an alternative to the approach taken in the proposed regulations, would adequately serve the Commission's purpose of satisfying the statutory standard "made on a basis which assures repayment."

Another issue is whether there is any additional information that should be reported to assist the Commission in monitoring compliance with the rules. For example, should these rules include guidelines or limits, either on a dollar or percentage basis, for the total amount of loans that a candidate or committee may have outstanding at any particular time? If so, how could the Commission implement such a proposal?

As a further assurance that future funds will be applied to repay the debt, the Commission requests comments on the idea of requiring the candidate or political committee to set aside a certain percentage of future funds in the separate account. This could be accomplished in a number of different ways. The regulations could specify a certain minimum percentage, or this could be left to the loan agreement. Also, this percentage could be of all funds, or proceeds from a particular fundraiser, only of matching payments or of any combination of these future receipts. This provision is not included in the proposed rules; rather, it is presented as a possible approach to the dilemma of how to provide more of an assurance of repayment when a loan is based on future receipts.

Also related to bank loans are lines of credit extended by lending institutions to federal candidates and political committees. The Commission seeks comment on whether these proposed rules can be applicable to such lines of credit. Lines of credit may present some unique circumstances that could pose problems for the Commission. For example, a political committee could obtain a line of credit, which at the time is based on adequate collateral, but not draw on such credit immediately. It is possible that six months later, the collateral initially relied upon would no longer be available, yet the committee would be able to draw on its line of credit. How can the Commission ensure that the loan is "made on a basis which assures repayment"? Should the lender periodically review the collateral available? How could this be implemented?

The Commission also requests comments on a suggestion to require loans to be reported earlier if they are made close to an election. This idea would parallel the current requirement for reporting contributions of $1,000 or more within 48 hours of receipt of the contribution by an authorized committee. *See* 11 CFR 104.5(f). This proposal would be consistent with the Act's focus on disclosure of large sums of money received close to an election.

Finally, the Commission seeks comment on the idea of requiring that loans made to political committees and federal candidates include a due date at or near the election. The banking regulatory agencies suggested this idea, analogizing it to agricultural loans that are due when crops are harvested and stating that the proposal is based on a sound banking principle that ties repayment of the loan into the source of the repayment. Political candidates may have difficulty raising money to pay back their loans after an election; on the other hand, a campaign's funds may be the lowest right before the election. The Commission requests comment, then, on this repayment requirement. Would a due date at or near the election be a factor indicating that the loan was made on a basis which assures repayment?

SUPPLEMENTS TO SCHEDULE C AND SCHEDULE C–P

Schedule C–1

(Supplementary for Information found on Page —— of Schedule C)

For Reporting a Loan From a Lending Institution

This schedule must be filed with Schedule C when obtaining a loan from a lending institution such as a State or federally chartered bank, savings and loan association, or credit union. This and a Schedule C must be filed with the first report disclosing such a loan. Thereafter, a Schedule C must be reported with each subsequent report filed with the Commission until the loan is fully repaid or terminated. *See* 11 CFR §§ 100.7(b)(11)(i), 100.8(b)(12)(i) and 104.11(a).

Full Name of Candidate or Political Committee Obtaining Loan (Debtor)

Full Name, Mailing Address and Zip Code of Lending Institution (Lender)

Original Amount of Loan

Interest Rate (% APR)

Date Incurred or Established

Due Date

Are other parties secondarily liable for the debt incurred?
☐ Yes ☐ No
(Names must be reported on Schedule C.)

Are any of the following pledged as collateral for the loan: real estate; personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable, cash on deposit, or other similar traditional collateral?
☐ Yes ☐ No
Specify: ——
What is the value of this collateral? ——
Does the lender have a perfected security interest in it?
☐ Yes ☐ No

Are any future contributions or future receipts of interest income pledged as collateral for the loan?
☐ Yes ☐ No
Specify: ——
What is the estimated value? ——
A depository account must be established pursuant to 11 CFR 100.7(b)(11)(i)(B) and 100.8(b)(12)(i)(B).
Date account established: ——

If neither of the types of collateral described above were pledged for this loan or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made, and demonstrate that it assures repayment.

Attach a signed copy of the loan agreement and any related security agreement(s), promissory note(s), and other related documents.

TO BE SIGNED BY THE LENDING INSTITUTION:

I. The terms of the loan and other information regarding the extension of the loan are accurate as stated above.

II. The interest rate on this loan is usual and customary, and the loan was made in accordance with this institution's usual policies and practices.

III. In the view of this lending institution, this loan was made on a basis which assures repayment.

Authorized Representative

Title

Date

Schedule C–P–1

(Supplementary for Information found on Page 2 of Schedule C–P)

For Reporting a Loan From a Lending Institution

This schedule must be filed along with Schedule C–P when obtaining a loan from a lending institution such as a State or federally chartered bank, savings and loan association, or credit union. This and a Schedule C–P must be filed with the first report disclosing such a loan. Therefore, a Schedule C–P must be reported with each subsequent report filed with the Commission until the loan is fully repaid or terminated. *See* 11 CFR 100.7(b)(11)(i), 100.8(b)(12)(i) and 104.11(a).

Full Name of Candidate or Political Committee Obtaining Loan or Line of Credit (Debtor)

Full Name, Mailing Address and Zip Code of Lending Institution (Lender)

Original Amount of Loan

Interest Rate (% APR)

Date Incurred or Established

Due Date

Are other parties secondarily liable for the debt incurred or extended?
☐ Yes ☐ No
(Names must be reported on Schedule C–P.)

Are any of the following pledged as collateral for the loan: real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable, cash on deposit, or other similar traditional collateral?
☐ Yes ☐ No
Specify: _____
What is the value of this collateral? _____
Does the lender have a perfected security interest in it?
☐ Yes ☐ No

Are any future contributions, future receipts of interest income, or future receipts of public financing pledged as collateral?
☐ Yes ☐ No
Specify: _____
What is the estimated value? _____
A depository account must be established pursuant to 11 CFR 100.7(b)(11)(i)(B) and 100.8(b)(12)(i)(B).
Date account established: _____

Date debtor authorized the Secretary of the U.S. Treasury to make direct deposits of public financing payments to the depository account: _____

If neither of the types of collateral described above were pledged for this loan or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made, and demonstrate that it assures repayment.

Attach a signed copy of the loan agreement and any related security agreement(s), promissory note(s), letters(s) authorizing the direct deposit of public financing payments, and other related documents.

TO BE SIGNED BY THE LENDING INSTITUTION:

I. The terms of the loan and other information regarding the extension of the loan are accurate as stated above.

II. The interest rate on this loan is usual and customary, and the loan was made in accordance with this institution's usual policies and practices.

III. In the view of this lending institution, this loan was made on a basis which assures repayment.

Authorized Representative

Title

Date

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 9004

Campaign funds, Political candidates, Elections.

11 CFR Part 9034

Campaign funds, Political candidates, Elections.

Certification of No Effect Pursuant to 5 U.S.C. 605(b)

Regulatory Flexibility Act

The attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that the primary purpose of the proposed amendments is to clarify the Commission's rules on the making of bank loans to candidates and political committees. This does not impose a significant economic burden because any entities affected are already required to comply with the Act's requirements in this area.

For the reasons set out in the preamble, it is proposed to amend Title 11, Chapter I, as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 would continue to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. By adding paragraphs (b)(11)(i) and (b)(11)(ii) to § 100.7 to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(11) * * *

(i) For purposes of 11 CFR 100.7(b)(11), a loan shall be considered made on a basis which assures repayment if:

(A) The lending institution making the loan has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, and the collateral value is equal to or greater than the loan amount as determined on the date of the loan. Sources of collateral include, but are not limited to, ownership in real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receiveable and cash on deposit. Amounts guaranteed by secondary sources of repayment, such as guarantors and co-signers, shall not exceed the contribution limits of 11 CFR Part 110 or contravene the prohibitions of 11 CFR 110.4, Part 114 and Part 115; or

(B) The lending institution making the loan has obtained a written agreement whereby the candidate or political committee receiving the loan has pledged future receipts of public financing payments as permitted under 11 CFR Part 9004 or Part 9034, future receipts of contributions, or future receipts of interest income, provided that:

(*1*) The amount of the loan or loans obtained on the basis of such funds does not exceed the pledged funds;

(*2*) Loan amounts are based on a reasonable expectation of the receipt of pledged funds;

(*3*) A separate depository account is established at the lending institution;

(*4*) The loan agreement requires the deposit of all public financing payments, contributions and interest income pledged as collateral into the separate depository account for the purpose of retiring the debt according to the repayment requirements of the loan agreement; and

(*5*) In the case of public financing payments the borrower authorizes the Secretary of the Treasury to directly deposit the payments into the depository account for the purpose of retiring the debt.

(ii) If the requirements set forth in § 100.7(b)(11)(i) are not met, the loan shall not be considered made on a basis which assures repayment unless the candidate or political committee obtaining the loan demonstrates that the loan was made on another basis which assures repayment.

* * * * *

3. By adding paragraphs (b)(12)(i) and (b)(12)(ii) to § 100.8 to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(12) * * *

(i) For purposes of 11 CFR 100.8(b)(12), a loan shall be considered made on a basis which assures repayment if:

(A) The lending institution making the loan has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, and the collateral value is equal to or greater than the loan amount as determined on the date of the loan. Sources of collateral include, but are not limited to, ownership in real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable and cash on deposit. Amounts guaranteed by secondary sources of repayment, such as guarantors and co-signers, shall not exceed the contribution limits of 11 CFR Part 110 or contravene the prohibitions of 11 CFR 110.4, Part 114 and Part 115; or

(B) The lending institution making the loan has obtained a written agreement whereby the candidate or political committee receiving the loan has pledged future receipts of public financing payments as permitted under 11 CFR Part 9004 or Part 9034, future receipts of contributions, or future receipts of interest income, provided that:

(*1*) The amount of the loan or loans obtained on the basis of such funds does not exceed the pledged funds;

(*2*) Loan amounts are based on a reasonable expectation of the receipt of pledged funds;

(*3*) A separate depository account is established at the lending institution;

(*4*) The loan agreement requires the deposit of all public financing payments, contributions and interest income pledged as collateral into the separate depository account for the purpose of retiring the debt according to the repayment requirements of the loan agreement; and

(*5*) In the case of public financing payments, the borrower authorizes the Secretary of Treasury to directly deposit the payments into the depository account to retire the debt.

(ii) If the requirements set forth in § 100.8(b)(12)(i) are not met, the loan shall not be considered made on a basis which assures repayment unless the candidate or political committee obtaining the loan demonstrates that the loan was made on another basis which assures repayment.

* * * * *

PART 9004—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS: USE OF PAYMENTS

4. The authority citation for Part 9004 would continue to read as follows:

Authority: 26 U.S.C. 9004 and 9009(b).

5. By revising § 9004.4(a)(2) to read as follows:

§ 9004.4 Use of payments.

(a) * * *

(2) A candidate shall use such payments to repay any loan from a lending institution pursuant to 11 CFR 100.7(b)(11) where such payments are a security interest for or are pledged as collateral or as any other form of a guarantee to assure repayment. Absent a loan from a lending institution where such payments are pledged, a candidate may use such payments to repay loans that meet the requirements of 11 CFR 100.7(a)(1) or 100.7(b)(11) or to otherwise restore funds (other than contributions received pursuant to 11 CFR 9003.3(b) and expended to defray qualified campaign expenses) used to defray qualified campaign expenses;

* * * * *

PART 9034—ENTITLEMENTS

6. The authority citation for Part 9034 would continue to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

7. By adding a new sentence to the end of § 9034.4(a)(1) to read as follows:

§ 9034.4 Use of contributions and matching payments.

(a) * * *

(1) * * * When contributions or matching payments are a security interest or are pledged as collateral or any other form of a guarantee for obtaining a loan from a lending institution pursuant to 11 CFR 100.7(b)(11), such contributions and matching payments shall be applied first to repay the loan in accordance with the terms of the loan agreement.

* * * * *

In addition to the preceding proposed amendments to 11 CFR Chapter I, the following language illustrates the analogy to insider loan banking regulations.

Language Illustrating Analogy to Insider Loan Banking Regulations

For purposes of 11 CFR 100.7(b)(11), a loan is considered made in the ordinary course of business if it:

(A) bears the usual and customary interest rate of the lending institution,

(B) is evidenced by a written instrument,

(C) is subject to a due date or amortization schedule,

(D) is made on substantially the same terms as those prevailing at the time for comparable transactions by the lending institution and does not involve more than the normal risk of repayment or present other unfavorable features, and

(E) is approved in advance by a majority of the entire board of directors of the lending institution.

Danny L. McDonald,

Chairman, Federal Election Commission.

Dated: July 20, 1989.

[FR Doc. 89-17391 Filed 7-26-89; 8:45 am]

BILLING CODE 6715-01-M

Federal Register

Thursday
July 27, 1989

Part III

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 570

Urban Development Action Grants (UDAG) Program; Changes to Project Selection System; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[Docket No. R-89-1440; FR-2647]

RIN 2501-AA83

Urban Development Action Grants (UDAG) Program; Changes to Project Selection System

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final an interim rule previously published, amending 24 CFR 570.459 to change the Urban Development Action Grants (UDAG) project selection system. The changes reflect the Secretary's priorities to address critical needs for housing and economic development.

EFFECTIVE DATE: September 29, 1989.

FOR FURTHER INFORMATION CONTACT: Roy Priest, Acting Director, Office of Urban Development Action Grants, Room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 755-6290. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2506-0101, which expires June 30, 1992. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in this document under the heading *Other Matters*. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The Urban Development Action Grant (UDAG) program is authorized by section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318). On August 29, 1988 (53 FR 33026), HUD published a final rule amending the UDAG regulations (24 CFR Part 570) by modifying the project selection criteria for UDAG funds and the definition of eligible cities. The rule became effective October 6, 1988.

In order to reflect the Secretary's priorities to address critical needs for housing and economic development, HUD further amended the project selection criteria in Part 570 by interim rule, published May 17, 1989 (54 FR 21388), and requested public comments. No comments were received; therefore, HUD is adopting the interim rule, without change, as final.

Other Matters

The collection of information requirements for the UDAG program were submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980, and were approved under OMB control number 2506-0101, expiration date June 30, 1992. Information on the burden hours for these requirements is provided as follows:

Burden	Number of responses	Responses per respondent	Hours per response	Annual total
Application	200	1.3	32.2	8,372

The collection of information requirements contained in this rule comprise 52 hours of the annual total of 8,372 burden hours.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

This rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities because the number of affected small entities is not substantial. The funding for the UDAG program is not a substantial amount and the effect of the changes will be neutral on the competitive position of small entities.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. The rule amends the UDAG selection criteria—a change that has neither substantial nor direct effects on cities and urban counties in their role as governmental entities.

The General Counsel, as the Designated Official under Executive Order 12606, *Family*, has determined that this rule may have a potential significant impact on family formation, maintenance, and general well-being, to the extent that UDAG funds are targeted for projects that promote economic development, the creation and retention of jobs, and affordable housing, all of which in turn promote the maintenance and well-being of families. Any family impact will be positive.

The Catalog of Federal Domestic Assistance number is 14.221—Urban Development Action Grants.

This rule was not listed in the Department's semi-annual agenda published on April 24, 1989 (54 FR 16708).

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs; Housing and

community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, the interim rule published in the **Federal Register** on May 17, 1989 (54 FR 21388) is adopted as final without change.

Date: July 17, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-17561 Filed 7-26-89; 8:45 am]

BILLING CODE 4210-32-M

federal register

Thursday
July 27, 1989

Part IV

Environmental Protection Agency

40 CFR Part 721

Significant New Use Rules; General Provisions for New Chemical Follow-up; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50553B; FRL-3504-6]

Significant New Use Rules; General Provisions For New Chemical Follow-Up

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA, under sections 5 and 26(c) of the Toxic Substances Control Act (TSCA), is establishing an expedited process for issuing significant new use rules (SNURs) for certain new chemical substances. The new process will apply to: (1) New chemical substances for which EPA has issued orders under section 5(e) of TSCA, and (2) other new chemical substances for which no section 5(e) orders have been issued, but which may present hazards to human health or the environment if exposures or releases are significantly different from those described in the premanufacture notice (PMN). EPA is also establishing standard language for designating certain significant new uses, recordkeeping, and other requirements.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m.eastern time on August 10, 1989. This rule shall become effective October 10, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 544- 0551.

SUPPLEMENTARY INFORMATION: This rule establishes standardized significant new uses and recordkeeping requirements which can be cited in SNURs applicable to individual substances. The rule also establishes procedures for expedited promulgation of SNURs, and for EPA consideration of requests from interested parties to amend or revoke SNURs.

Public reporting burden for this collection of information is estimated to average 12.2 hours per response for Subpart B, and to average 25.3 hours per response for Subpart C, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 marked "Attention: Desk Officer for EPA."

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604 (a)(2)) authorizes EPA to designate a use of a substance as a significant new use. EPA makes this designation by issuing a SNUR after it has considered all relevant factors, including those listed in section 5(a)(2). Under section 5(a)(1)(B) of TSCA, persons must submit a significant new use notice to EPA at least 90 days before they manufacture, import, or process a substance for a significant new use. Persons subject to a SNUR must follow the same rules and procedures as persons who are required by section 5(a)(1)(A) of TSCA to submit a PMN.

Section 26(c) of TSCA (15 U.S.C. 2625(c)) authorizes EPA to take action under other sections of TSCA with respect to categories of chemical substances.

II. Introduction

A. Summary

This rule amends 40 CFR Part 721 by establishing new Subparts B, C, and D and by amending Subpart A. Other amendments to Subpart A were recently promulgated at 53 FR 28358 (July 27, 1988).

In Subpart A this rule establishes definitions of terms found in Subparts B, C, and D. Some of the terms were proposed in the **Federal Register** of April 22, 1986 (51 FR 15104), and of April 29, 1987 (52 FR 15593); other terms were added in response to comments made on the proposed rules. The new terms were included because they were necessary for the practical functioning of Subparts B, C, and D. None of the new terms modifies the substance of the proposed rules.

Subpart B establishes standard significant new use designations. Each standard significant new use will apply to a specific substance only if it is cited in the SNUR for that specific substance. EPA may designate as significant new uses activities other than those for which standard designations are provided for in Subpart B. When the standard designations contained in Subpart B do not provide an adequate description of a significant new use, EPA will develop an appropriate designation and use it in the SNUR for the specific substance. If EPA expects to use the same language in future SNURs, EPA will amend Subpart B to include the new use designation. The hazard communication provisions contained in Subpart B were proposed on April 22, 1986 (51 FR 15104). All other provisions contained in Subpart B were proposed in the **Federal Register** of April 29, 1987 (52 FR 15594).

Subpart C establishes recordkeeping requirements which will apply for a specific substance only if cited in the SNUR for that specific substance. EPA may designate recordkeeping requirements other than those for which standard designations are provided for in Subpart C. When the standard designations contained in Subpart C do not provide an adequate description of a needed recordkeeping requirement, EPA will develop an appropriate description and place it in the SNUR for the specific substance. If EPA expects to use the same language in future SNURs, EPA will amend Subpart C to include the new recordkeeping requirement. Subpart C was proposed in the **Federal Register** of April 29, 1987 (52 FR 15594).

Subpart D contains expedited procedures for establishing significant new use requirements for certain new substances that have completed PMN review and are regulated by an order issued under section 5(e) of TSCA. Subpart D also contains criteria used to determine whether uses not identified in the PMN of substances which have completed PMN review and have not been the subject of a section 5(e) order will be considered candidates for a SNUR under expedited procedures. In addition, Subpart D contains a procedure through which a person may request limitation or revocation of SNURs which were promulgated under this expedited procedure. Subpart D limits the significant new use designations that may be included in SNURs issued under the expedited procedures for non-section 5(e) substances. Subpart D was proposed in the **Federal Register** of April 29, 1987 (52 FR 15593).

Subpart E was established in the **Federal Register** of February 2, 1988 (53 FR 2845). It contains SNURs for specific chemical substances.

B. Changes From the Proposed Rule

As discussed above, the hazard communication provisions of this final rule were proposed on April 22, 1986, and the remainder of this rule was proposed on April 29, 1987. The following changes have been incorporated in this final rule:

1. The proposed standard significant new use designations and recordkeeping

requirements in Subparts B and C have been modified to be consistent with the standard provisions for section 5(e) consent orders which were developed in a public comment process announced in the **Federal Register** of March 6, 1988.

2. This rule adopts most of the Occupational Safety and Health Administration's (OSHA) hazard communication standard (29 CFR 1910.1200). EPA is not adopting certain parts of OSHA's hazard communication standard because they either are covered in other sections of EPA rules or are not applicable. EPA did not adopt a requirement in OSHA's standard (pertaining to trade secrets) that the identity of the substance must be released to a physician or nurse during a medical emergency. Instead, EPA has required that a person who can provide treatment information when a person has been exposed to the SNUR substance be designated in the material safety data sheet (MSDS) and on the label. EPA received no comment on this issue.

3. On April 29, 1987, EPA had proposed a program under which it would issue immediately effective final SNURs for new chemical substances subject to TSCA section 5(e) orders, or which met certain hazard and exposure criteria.

This final rule significantly changes the proposed approach to provide a greater opportunity for public comment. EPA will issue SNURs under one of three procedures. The three mechanisms are: direct final rules, immediately effective interim final rules, and notice and comment rulemaking. EPA intends to use the direct final rulemaking process as its usual method for issuing new substance follow-up SNURs, but reserves the right to use immediately effective interim final or notice and comment rulemaking as appropriate.

Direct final rulemaking is the same as a procedure that is used by EPA for rulemaking under the Clean Air Act. In the **Federal Register** of June 23, 1982 (47 FR 27073), EPA discussed streamlining the State Implementation Plan (SIP) review process. In that notice, EPA announced that it would promulgate certain SIP revisions for which no public comment was expected using an "immediate final rulemaking." EPA has decided to adopt the same process for issuing SNURs under this rule because EPA does not generally anticipate public comment on these SNURs.

The process adopted for SNURs under this rule as "direct final rulemaking" works as follows: EPA will issue a document in the final rule section of the **Federal Register** which contains the final SNUR. The **Federal Register** document will state that the SNUR will be effective 60 days from the date of publication, unless, within 30 days from the date of publication, EPA receives written notice that someone intends to submit adverse or critical comments. If, within 30 days from the date of publication, EPA receives notice that someone intends to submit adverse or critical comments, EPA will withdraw the direct final rule by issuing a document in the final rule section of the **Federal Register**. EPA will simultaneously issue a proposed rule in the proposed rule section of the **Federal Register**. The proposed rule will establish a 30-day comment period, and will identify any objections to the rule of which EPA has been notified. EPA will then consider any comments received and decide either to issue a final rule promulgating the SNUR or withdraw the proposal.

EPA believes that this process provides an improved opportunity for public participation consistent with the objective of providing for prompt promulgation of SNURs to follow-up on new chemical substances. EPA will generally use this approach because it significantly reduces the time, relative to notice and comment rulemaking, during which a person may legally engage in a significant new use before the SNUR effective date. This option saves EPA resources because routinely only one **Federal Register** document is required to establish a SNUR.

Immediately effective interim final rules will work as follows: These SNURs will be issued as interim final rules and will be effective on the day of publication. A 30-day comment period begins on the day after publication. The rule ceases to be in effect 180 days from the date of publication unless during that time EPA issues a final rule addressing any comments received. This option provides the greatest possible reduction in the period during which a person may legally engage in an activity EPA intends to regulate as a significant new use because the rule is immediately effective and enforceable. EPA expects to use interim final rulemaking for SNURs when EPA has reason to believe that someone is likely to engage in the significant new use before the rule would go into effect under direct final or notice and comment rulemaking. EPA will explain its reasons when it uses this procedure for a specific SNUR.

EPA expects to follow notice and comment rulemaking procedures to issue SNURs in cases where it expects adverse or critical public comments on a SNUR. While this option maximizes the period during which a person may engage in the activity EPA intends to regulate under a SNUR, it also gives maximum public notice, and ensures a full period to address any significant issues. A full notice and comment cycle requires publication of two documents, and thus will cost more than the direct final method in most cases.

4. EPA had proposed that information submission requirements be imposed under TSCA section 8(d) for all substances, and under section 8(a) for some substances, subject to SNURs on an expedited basis. EPA has not adopted this aspect of the proposal. Such rules will be issued on a case-by-case basis as necessary, and consequently will not be issued under the expedited procedures of this final rule.

5. EPA's response to comments document (available in the public docket for this rule) supplements this preamble by addressing the public comments received on all aspects of this rule.

III. Provisions of the Final Rule

A. Amendments to Subparts A and B: Standard Language Describing Significant New Uses

Subpart A is amended to establish new definitions needed for the functioning of Subparts B, C, and D. The new Subpart B contains standard language which EPA will use in designating certain activities as significant new uses. Using standard language will reduce potential confusion due to minor language variations from SNUR to SNUR. When EPA wishes to designate an activity described by standardized language as a significant new use for a particular substance, it will list the substance in Subpart E and reference the appropriate standard new use language from Subpart B. Subpart B now contains the following sections:

§ 721.50 Applicability.
§ 721.63 Protection in the workplace.
§ 721.72 Hazard communication program.
§ 721.80 Industrial, commercial, and consumer activities.
§ 721.85 Disposal.
§ 721.90 Release to water.
§ 721.91 Computation of estimated surface water concentrations; instructions.

When appropriate standard language is not contained in Subpart B, EPA may amend Subpart B to add additional standardized language. This standard language will establish a significant new use for a particular new chemical substance only when it has been cited in a SNUR in Subpart E. EPA also intends to use standard provisions in section 5(e) consent orders; the standard SNUR language is designed to track the corresponding section 5(e) order provisions.

In codifying standard language for designation of significant new uses, it is not EPA's intent to discourage persons subject to SNURs from proposing more effective alternative approaches to limit exposure or environmental release. EPA encourages manufacturers, importers, and processors to seek approval of more effective alternative control measures under § 721.30.

1. *Section 721.63 Protection in the workplace.* This section designates new uses based on dermal and respiratory exposure and requires that employers demonstrate that chemical protective clothing is impervious to the substance. Changes from the proposal are designed to enable the Agency to more precisely cite exposures of concern and protective measures. The rule provides an exclusion from the workplace protection provision for mixtures containing low concentrations of the substance and establishes procedures persons must follow if they discover that their customers are engaging in activities inconsistent with the provisions of § 721.63(a).

i. *Dermal protection.* Section 721.63(a) will be cited whenever dermal exposure is a concern. This provision establishes a performance-based approach to dermal protection. The language allows employers to determine which employees are reasonably likely to be dermally exposed by evaluating the work area. Each employer has the responsibility to select, provide, and enforce the correct use of the appropriate personal protective equipment for dermal protection. Employer selection of control measures may take into account engineering controls and work practices instead of, or in addition to, personal protective equipment. Dermal protection applies only to persons who are reasonably likely to be dermally exposed. Reasonable and feasible engineering controls may often eliminate the need for personal protective equipment because the "reasonably likely to be exposed" finding will not be made. Under special circumstances EPA will cite the menu in § 721.63(a)(2) to specify the type of personal protective equipment that must be used for dermal protection in addition to the performance-based approach. A menu of physical forms at § 721.63(a)(6) allows the SNUR to establish controls appropriate to substances which have high vapor pressure and to which airborne exposures are likely as well as to substances which have low vapor pressure and to which airborne exposures are unlikely, consistent with a section 5(e) order on which the SNUR is based.

Section 721.63(b) exempts mixtures containing a concentration less than or equal to a concentration specified in Subpart E of this Part for a substance from dermal protection requirements, but excludes from exemption mixtures which might concentrate above the exemption limit. The concentration specified will ordinarily be one percent of the chemical substance (one tenth percent if the chemical substance is a carcinogen), which is consistent with the similar OSHA exemption, but other concentrations will be specified when appropriate. This exemption is not intended to cover a case where the substance is present in the mixture in concentrations greater than the level set in Subpart E of this Part, even though the airborne concentration of the mixture may be less than the level set in Subpart E of this Part.

EPA has added definitions for "work area" and "workplace" to Subpart A to clarify use of those terms in § 721.63. EPA developed the performance-based dermal protection provisions in response to comments favoring use of performance- based provisions whenever appropriate. EPA has retained standard language for describing specific types of personal protective equipment. EPA will cite this language when it determines that a particular type of personal protective equipment is essential for adequate worker protection.

ii. *Demonstration of imperviousness.* EPA requires that employers demonstrate that chemical protective clothing is impervious to the substance under the conditions and duration of exposure.

EPA is allowing two methods to demonstrate imperviousness: (a) Actual testing of the chemical protective clothing by the employer, and/or (b) evaluation of the chemical protective clothing manufacturer's specification data. EPA expects the demonstration of imperviousness will address the total environment to which the chemical protective clothing is exposed. EPA expects that factors affecting physical integrity such as abrasions, punctures, and tears will be considered. The employer must also consider penetration and permeation by the substance under the conditions and duration of exposure.

iii. *Respiratory protection.* Section 721.63 (a)(4) and (5) will be cited when inhalation exposure to the substance is a concern, and will specify the appropriate category of respirator for the substance from the lists contained in this section. The list of classes of respirators from which EPA will make selections has been expanded to provide a more complete range of options and a list of physical states has been added at § 721.63(a)(6) to allow EPA to specify protective measures against respiratory exposure from low-vapor pressure substances (e.g., acrylates) when they are used in a manner likely to cause exposure, while allowing the measures to be omitted when the substances are used in a manner not likely to cause the exposure.

EPA encourages employers to evaluate their work areas and to implement industrial hygiene programs that consider the use of engineering controls to reduce or eliminate inhalation exposure. If an employer wishes to use respiratory protection controls which differ from those specified in a SNUR, the employer may request EPA approval for their use under § 721.30.

EPA received comments suggesting that it adopt a performance-based approach to control respiratory exposure. EPA is considering development of performance-based provisions and will incorporate them into § 721.63 when developed. However, until performance-based provisions are available and the rule is amended, EPA will continue to specify respiratory protection equipment.

iv. *Low concentrations in mixtures.* As noted above, § 721.63(b) provides an exemption from use of controls on exposure when the substance is present in the workplace in a mixture with concentration of the substance less than or equal to a concentration specified in Subpart E of this Part for a substance from dermal protection requirements, but excludes from exemption mixtures which might concentrate above the exemption limit. The concentration specified will ordinarily be one percent of the chemical substance (one tenth percent if the chemical substance is a carcinogen), which is consistent with the similar OSHA exemption, but other concentrations will be specified when appropriate. The exemption would not apply if using or processing a mixture containing the substance at a concentration below the exemption level is likely to concentrate the substance above the exemption level. This exemption is not intended to cover a case where the substance is present in the mixture in concentrations greater than the level set in Subpart E of this Part, even though the airborne concentration of the mixture may be less than the level set in Subpart E of this Part. This exemption was not included in the proposed rule, but EPA has

included it in response to comments to enable the provisions of § 721.63 to be consistent with the provisions of § 721.72(e) and OSHA practice.

v. *Recipient activities inconsistent with a program for protection in the workplace.* Section 721.5(d), promulgated July 27, 1988 (53 FR 28354), sets forth procedures that persons subject to a SNUR (suppliers) must follow if they become aware that a customer is engaging in a significant new use, for example, the customer is not complying with workplace protection requirements. This section requires that the supplier stop distribution of the substance to that customer and notify EPA of the customer's failure to comply. EPA received comments that under some circumstances involving worker protection measures this requirement could be unnecessarily harsh. In response, EPA has added § 721.63(d), which allows the supplier to notify the customer in writing if its activities are inconsistent with a required worker protection program. If the supplier can then document that the customer has provided a written statement of assurance that appropriate measures to provide a worker protection program have been taken, the supplier is not required to stop supplying the customer. If a supplier later learns that the customer has failed to provide required worker protection, the supplier must stop distributing to that customer and follow the requirements of § 721.5(d).

2. *Section 721.72 Hazard communication program.*

i. *Introduction.* Section 721.72 establishes EPA's workplace hazard communication program. The section will be cited whenever EPA determines that it is necessary to inform workers of potential hazards and exposures in the workplace and how they must act to protect themselves under both routine and emergency conditions. EPA has received comments that a program will be easier to implement and more effective if it parallels the OSHA hazard communication standard to cover numerous existing chemicals which are present in the workplace. EPA agrees, and the provisions of § 721.72 parallel those of OSHA's standard where possible, but there are differences between the two. The most significant differences are: (a) The OSHA standard requires an employer to make a hazard determination, while in the EPA standard the hazard determination is made by EPA; (b) the OSHA standard allows the employer to develop language for labels and for the MSDS, while in § 721.72 EPA provides certain language to be included on the label and MSDS; (c) the OSHA standard has a trade secrets provision while § 721.72 does not; and (d) § 721.72 requires that environmental hazards be listed on the container label and the MSDS while the OSHA standard does not. The primary reason for the first two differences is that, in evaluating new substances, EPA is most often relying on a finding that a substance may present a risk, pending the development of additional data. OSHA's standard applies to substances for which more definitive data are available and which are known to present certain hazards. A separate trade secrets provision is not required, as section 14 of TSCA and EPA's rules issued to implement section 14 adequately address the issue. The fourth difference stems from EPA's broader mandate to protect the environment, as well as human health, from unreasonable risks.

ii. *Written hazard communication program.* Section 721.72(a) sets forth requirements for a written hazard communication program, which requires that each employer develops a written plan to ensure that employees who may be exposed to the substance will be made aware of the hazards involved, and specifies employee information and training, such as control measures to prevent employee exposure and release to the environment. The written program must be available to each employee, upon request. The proposed rule did not require a written hazard communication program. EPA included the written program in the final rule because EPA determined that a written program is necessary for a complete hazard communication program, and to parallel more closely the requirements of OSHA's standard, as suggested by commenters.

iii. *Labeling.* Section 721.72(b) sets forth labeling requirements for substances subject to § 721.72. It addresses both labeling of substances in the workplace and labeling for distribution in commerce. It requires information on both types of labels to alert employees to the possible health and environmental hazards of the substance and precautionary measures to prevent exposure and/or release to the environment. The label must refer the user to the MSDS for details. Container labels used outside the workplace must have the name and address of a responsible person who can be contacted for additional information on the substance, including appropriate emergency procedures.

iv. *Material safety data sheets.* Under § 721.72(c) an employer is required to obtain or develop an MSDS. The MSDS format is not specified by EPA; however, EPA does specify information that must be listed, if known, including: Physical and chemical characteristics, health and environmental hazards, signs and symptoms of exposure, medical conditions which may be aggravated by exposure, primary route(s) of exposure, and appropriate measures to control worker exposure and/or environmental release. The final rule does not make any substantive changes to the proposal.

An employer who distributes the substance must provide the MSDS at the time of the initial shipment and with the first shipment after each MSDS update. If the substance is not currently being produced, imported, processed, or used in the workplace, the employer must add new information to the MSDS before the substance is reintroduced into the workplace.

v. *Employee information and training.* The proposed employee information and training requirements have been changed to place more emphasis on training. The training and information must be provided at the time of initial employee assignment to a work area and whenever a substance subject to § 721.72 is introduced into the work area.

The employee information and training program must identify and address each substance subject to these provisions in the employee's work area. EPA intends that the employee who is reasonably likely to be exposed be made aware of and understand the health and environmental hazards of the substance and the control measures the employer is providing. This training requires an explanation of the MSDS required for each substance. All acute and chronic human health hazards known by the employer and identified in Subpart E must be listed, and the warning terms and phrases used to indicate the hazard must be explained. The personal protective equipment, engineering controls, and other measures used to control worker exposure and/or environmental release must be listed and explained. The training must also include methods and observations that may be used to detect the presence or release of each substance. Employees of contractors, and other workers not directly employed by the employer, must also receive the training and written materials, if the determination has been made that they are reasonably likely to be exposed to the substance.

Employees must also be given information to help them identify all operations in their work area where the

substance is present, and how they may be exposed. Employees must be informed about the specific requirements of the labeling program, the requirements for the MSDS, and all aspects of the hazard communication program that are relevant to their work assignments.

vi. *Low concentrations in mixtures.* Section 721.72(e) provides an exemption from the requirements of § 721.72 if a substance is present in the workplace only in a mixture containing a concentration less than or equal to a concentration specified in Subpart E of this Part for a substance, but excludes from exemption mixtures which might concentrate above the exemption limit. The concentration specified will ordinarily be one percent of the chemical substance (one tenth percent if the chemical substance is a carcinogen), which is consistent with the similar OSHA exemption, but other concentrations will be specified when appropriate.

This low concentration exemption was not included in the proposed rule. EPA decided to include this provision in response to comments which stated that without such an exemption the EPA program would be inconsistent with the OSHA standard.

vii. *Existing hazard communication program.* Section 721.72(f) clarifies the status of programs and procedures established under the OSHA standard and other rules. EPA intends that no unnecessary duplication of effort be required when complying with § 721.72. Commenters voiced their concerns about duplication of efforts because many already have a hazard communication program required under other rules. In all situations, if an employer is complying with another rule and those efforts meet or exceed the requirements of § 721.72, no additional action is necessary to comply with § 721.72.

viii. *Human and environmental hazard and precautionary statements.* Section 721.72(g) provides the standard language that EPA will specify for labels and MSDSs. EPA believes this standardization will provide consistency in content and organization to the writing of SNURs. EPA's requirements do not exclude the addition of other material to the labels and MSDSs, but they provide a minimum set of information which must be provided.

3. Section 721.80 *Industrial, commercial, and consumer activities.* Section 721.80 designates certain activities as significant new uses. Significant new uses described in this section include: Manufacture, processing, or use in non-enclosed processes; manufacture (except for export) of the substance associated with any use; use other than as an intermediate; use other than as a site-limited intermediate; use as an intermediate, where the concentration of the substance in products intended for distribution in commerce exceeds the percentage specified by EPA; non-industrial use; commercial use; use in a consumer product; annual manufacture and importation volume greater than that specified by EPA; and manufacture, processing, or use in physical forms specified by EPA.

Some commenters on the proposed rule stated that the uses described in § 721.80 are too broad and might require unnecessary notification. EPA has considered the comments, and has added additional uses where possible. For the most part, however, EPA has decided to promulgate the uses as proposed. EPA cannot predict and enumerate SNURs for every possible use variation that might lead to significant exposure or release. Often it is more practical to simply identify the category of use that is of concern. When EPA receives a significant new use notification, it will evaluate the specific use that is then proposed to determine whether it may present an unreasonable risk.

4. *Section 721.85 Disposal.* Section 721.85 designates specific ongoing or allowed disposal methods. Any other method is designated as a significant new use, requiring that manufacturers, importers, and processors submit a significant new use notice 90 days before employing such a disposal method.

Some commenters argued that the provisions of § 721.85 duplicate EPA rules issued under the Resource Conservation and Recovery Act and are, therefore, unnecessary. EPA intends to include disposal provisions in SNURs when it determines that disposal of the substance may not be adequately addressed by existing disposal rules. EPA can consider requests to limit or revoke SNURs under the provisions of § 721.85, if submitters believe they are in fact redundant.

5. *Section 721.90 Release to water.* Section 721.90 contains standard language for designating significant new uses involving release to water. Section 721.90(a) addresses manufacture streams, § 721.90(b) addresses processing streams, and § 721.90(c) addresses use streams. Section 721.90 (a)(2), (b)(2), and (c)(2) include a list of treatment technologies. EPA may specify one or more of these technologies for a substance if it determines that release without application of the specified treatment technology would constitute a significant new use. Section 721.90 (a)(4), (b)(4), and (c)(4) require notification only if the predicted environmental concentrations exceed a specified level.

In the proposed rule, reporting requirements for release to water were addressed in two sections. One covered process streams, the other, use streams. The definition of process stream had included both processing and manufacture. EPA determined that it will not always be appropriate to require reporting for both processing and manufacture, so it has modified the language of the rule to allow each to be specified separately as well as to specify them together. To do so, EPA has added a definition for manufacturing stream and sharpened the definition of processing stream so that it does not include manufacturing, and has established separate sections for manufacturing and for processing (§ 721.90 paragraphs (a)(2) and (b)(2)), allowing them to be specified separately. In cases where each should be a significant new use, both will be specified.

Section 721.91 provides a formula to be used in projecting environmental concentrations under § 721.90 (a)(4), (b)(4), and (c)(4). A commenter noted that the formula established in § 721.91 for calculating estimated surface water concentrations is difficult to use. EPA reviewed the formula but has been unable to devise a simpler calculation that would be suitable for general use. EPA will consider alternative mechanisms for calculation on a case-by-case basis, and may employ them if it determines that they are similar and will lead to a reliable projection of environmental concentration.

B. Subpart C: Recordkeeping and Other Requirements

Subpart C establishes recordkeeping requirements which apply to manufacturers, importers, and processors of SNUR substances. The specific records which are required depend upon the activities which have been designated as significant new uses. EPA will specify the appropriate recordkeeping requirements in Subpart E at the time it issues the SNUR for a particular substance. Such records must be maintained for 5 years from the date of their creation.

Several commenters voiced concerns that they will be required to keep separate records to document compliance with SNURs when records kept under other regulatory programs

should suffice to demonstrate compliance. In general, EPA has sought to frame recordkeeping requirements in flexible, performance- oriented terms. Rather than specify the particular types of records that must be kept, the rule lists the general types of information required to document compliance with SNUR requirements. Thus, manufacturers, importers, and processors will have discretion to determine which specific records must be retained. The records required to be maintained under this section often will be normal business records, and EPA intends that normal business records will usually suffice. In a few cases, the generation of additional records will be required. It is the responsibility of the manufacturer, importer, or processor to assess the adequacy of existing records, add to them if necessary, and maintain them in a form accessible to EPA for the required length of time.

EPA expects firms subject to SNUR requirements to exercise reasonable judgment in determining the steps necessary to document compliance with SNUR requirements. Records that are sufficient to document SNUR compliance in one case may not be sufficient in another.

Table 1 illustrates EPA's approach to recordkeeping by providing examples of the records that might document compliance with different SNUR requirements. These examples are intended merely to be illustrative. In many cases, the examples listed in the following Table 1 would be sufficient to document SNUR compliance; in other cases more or fewer records might be necessary.

TABLE 1—ADMINISTRATIVE EXAMPLES OF RECORDS COMPLYING WITH § 721.125

Significant New Use	Requirement	Examples
Disposal Methods.	Records demonstrating establishment and implementation of procedures that ensure compliance with any disposal limitations referenced in § 721.85.	Certificates of destruction from disposal facility. Bills of lading. Manifests. Waste treatment systems inventories.
Use in non-enclosed processes. Any manner or method of manufacture or processing in non-enclosed processes associated with any use. Use beyond the site of manufacture. Any manner or method of manufacture (excluding import) within the United States. Use other than as an intermediate. Use as an intermediate where the concentration of the intermediate substance in the product intended for distribution in commerce exceeds X percent. Non-industrial use. Commercial use. Use in a consumer product. Use other than as site-limited intermediate.	Records documenting compliance with any applicable industrial, commercial, and consumer use limitation referenced in § 721.80.	Batch slips. Process descriptions. Chemical inventory/plant inventory. Storage and production records.
Use in the form of a powder. Any manner or method of manufacture or processing in the form of a powder associated with any use (or other form). Use involving application methods that generate vapors, mists, or aerosols. Use involving application methods that generate dusts.	Records documenting compliance with any applicable industrial, commercial, and consumer use limitation referenced in § 721.80.	Process description.
Hazard Communication Employee Training.	Records documenting establishment and implementation of a program for employee information and training referenced in § 721.72.	Written hazard communication program. Attendance sheets from training sessions. Copies of written materials distributed at training sessions. Copies of labels. Copies of MSDSs.
Hazard Communication Labeling.	Records documenting the names and addresses of all persons to whom the substance is sold or transferred, the date of each sale or transfer, and the quantity of the substance sold or transferred on such date. Copies of labels used.	Bills of sale. Copies of labels.
Manufacture, import, or processing without establishing a program whereby persons who may be dermally exposed to the substance are required to wear protective clothing, impervious gloves, and goggles.	Records documenting establishment and implementation of a program for the use of personal protective equipment referenced in § 721.63(a). Records documenting determinations under § 721.63(a)(3) that protective gloves are impervious to the substance.	Written hazard communication program. For gloves—Specifications supplied by the manufacturer of gloves; results of tests done on gloves. Attendance sheets from training sessions.
Manufacture, import, or processing without establishing a program whereby persons who may be exposed to the substance in the form of an aerosol or mist are required to wear respirators.	Records documenting establishment and implementation of a program for the use of personal protective equipment referenced in § 721.63(a).	Written hazard communication program. Process descriptions. Records of fit tests. Attendance sheets from training sessions.
Annual production volume greater than X.	Records documenting the manufacture and importation volume of the substance.	Production records. Import records.

TABLE 1—ADMINISTRATIVE EXAMPLES OF RECORDS COMPLYING WITH § 721.125—Continued

Significant New Use	Requirement	Examples
Water Release Limitations.	Records demonstrating establishment and implementation of procedures that ensure compliance with any water discharge limitations referenced in § 721.90.	Process description diagram (as described in § 721.91). Equation computation and paperwork supporting equation results.

C. Subpart D: Expedited Process for Issuing SNURs for New Chemical Substances; Limitation and Revocation of New Chemical Substance SNURs

Subpart D establishes at §§ 721.160, 721.170, and 721.185 expedited procedures for promulgation of, and for modifying or revoking, SNURs for new chemical substances.

1. *SNUR requirements for new chemical substances regulated under section 5(e) orders.* Section 721.160 establishes expedited procedures for issuing SNURs for new substances that are subject to TSCA section 5(e) orders. The SNUR issued for each substance will be based on and be consistent with the provisions included in the section 5(e) order governing use of the substance. EPA may also designate additional uses as significant new uses for such substances under the rulemaking procedures and criteria of § 721.170.

i. *Substances subject to section 5(e) orders issued before the effective date of this rule.* EPA requested comment in the 1987 proposal on whether § 722.160 (now § 721.160) should be applied to substances subject to section 5(e) orders negotiated prior to the effective date of this rule. All commenters addressing this issue requested that EPA modify the rule to do so. EPA has modified § 721.160 so that it can be applied to substances subject to section 5(e) orders issued prior to the effective date of this rule. If the notice of commencement of manufacture for the substance was received prior to the effective date of this rule, the direct final, interim final, or proposed SNUR will be issued within 1 year of the effective date of this rule. If the notice of commencement of manufacture is received after the effective date of this rule, the direct final, interim final, or proposed SNUR will be issued within 180 days of receipt of the notice. If EPA receives adverse or critical comments on a proposed SNUR, publication of the final rule may be delayed.

ii. *Non-issuance of SNURs for substances made subject to section 5(e) orders.* EPA will generally issue SNURs for substances made subject to section 5(e) orders. However, in cases where EPA believes that there is little likelihood that there will be manufacturers or processors other than the PMN submitter, or for other reasons believes that a SNUR for the substance is inappropriate, EPA may decide not to issue a SNUR for a substance subject to a section 5(e) order. In such cases EPA will issue a notice in the **Federal Register** explaining its reasons for not issuing a SNUR. EPA expects that such cases will be rare.

2. *SNUR requirements for new chemical substances not regulated under a section 5(e) order.* Section 721.170 establishes expedited procedures for issuing SNURs to regulate activities not covered in a section 5(e) order. Additionally, it establishes criteria for choosing which substances will be regulated ("concern criteria"), and limits the uses for which SNURs will be written, under the procedures of the section.

i. *Criteria other than concern criteria.* EPA will only designate an activity as a significant new use under § 721.170 if the activity was not described in the PMN for the substance, and the activity also satisfies a concern criterion established at § 721.170(b). Such a use may be made subject to a SNUR under this section whether or not a section 5(e) order is written for any other use of the substance described in the PMN. Procedures for issuing SNURs under § 721.170 are in § 721.170(c).

EPA decided that certain designations in § 721.80 are, by their nature, not appropriate for expedited SNURs issued under the procedure described in § 721.170. Expedited procedures will be used to issue SNURs including these designations only for SNURs based on section 5(e) orders. These designations include, for example, designation of uses other than those described in the PMN described in § 721.80(j), designation of cumulative manufacture or import in excess of specified quantities in the absence of test data (§ 721.80(r)), and the failure to use personal protective equipment (described in § 721.63).

Although these activities are not included under the expedited procedures of § 721.170, EPA may at any time include them in a SNUR adopted through separate rulemaking for a substance not subject to a section 5(e) order as long as it makes the findings specified in section 5(a)(2) of TSCA.

ii. *Concern criteria: information to be used in choice of substances.* Under § 721.170, SNURs may be issued for new substances if they meet the concern criteria established at § 721.170(b). These are generally similar criteria to those used by EPA in determining if a section 5(e) order should be developed. The criteria established at § 721.170(b) generally call for development of a SNUR if the exposures likely to result from uses not described in the PMN would have called for the development of a section 5(e) order if they had been described in a PMN.

Several commenters expressed the view that, under the language of the proposed rule, substances would be subject to SNURs on the basis of inadequate evidence. Appropriateness of EPA use of evidence was discussed at length in the public meetings held prior to publication of the proposed rule. A description of these discussions is in the public record for this rule. EPA believes that its criteria for concern are appropriate. In general, EPA regulates on the basis of the weight of the evidence available to it from all sources.

A commenter asked for restraint by EPA in use of structure activity relationship analysis (SAR) in assessing substances, and in framing SNUR restrictions for substances not subjected to a section 5(e) order. EPA makes its decisions based on the entire body of available evidence, and attempts to assign appropriate weight to each piece of evidence used. Often SAR is the best evidence available for new, little-tested substances. When better evidence is available, it will be given due consideration.

Two commenters requested that EPA convene open scientific meetings prior to issuance of this final rule to identify the best scientific basis for applying SAR. A commenter, noting that under the proposed rule notice and comment rulemaking would be curtailed, asked that EPA convene workshops and public meetings to receive comments on its use of SAR. In addition, the commenter asked that EPA annually reconvene the original Toxic Substances Dialogue

Group to assess how well the rule is working.

EPA is always interested in receiving comments and responses on its procedures and policies from regulated industry and the public. The change in this final rule from immediately effective final rules to procedures that will allow for public comment on each individual SNUR as necessary should provide adequate opportunity for comment on SAR use, and on the ongoing use of this rule.

Another commenter suggested that written SAR guidelines be released for public comment, and made a general request that scientific issues affecting PMN submitters receive the benefit of public comment.

EPA does not intend to maintain a written SAR guidance document. EPA use of SAR to assess the possible risk posed by a substance is based on professional judgment on a case-by-case basis. A general discussion of EPA's approach to SAR use was presented in the public discussions prior to the proposal, and is available in the public record maintained for this rulemaking.

EPA will hold meetings on its use of SAR and on other subjects as the need arises, but does not have plans for regular meetings at this time, nor does it foresee using the Dialogue Group as a formal ongoing advisory group.

3. *Procedures for issuing expedited SNURs.* The three procedures which may be used to issue SNURs under §§ 721.160 and 721.170 are: Direct final rulemaking, immediately effective interim final rulemaking, and notice and comment rulemaking. EPA will generally use direct final rulemaking to issue new substance SNURs, unless it determines that use of immediately effective interim final rulemaking or notice and comment rulemaking is more appropriate. EPA will use immediately effective interim final rulemaking in cases where it believes there may be particularly high potential hazard from uncontrolled use of the substance, or a particularly high likelihood that someone would engage in a significant new use between the time EPA announces its intention to issue a SNUR and the time the SNUR would take effect. When EPA determines that it is necessary to issue an immediately effective interim final SNUR, it will make the necessary findings and explain its reasons in the rule.

EPA will use notice and comment rulemaking to establish a SNUR when it believes there is a very high likelihood of public interest in commenting on the rule.

i. *Direct final rulemaking.* Under the direct final rulemaking process, EPA will issue a document in the final rule section of the **Federal Register** which contains the final SNUR. The **Federal Register** document will state that, unless written notice is received by EPA within 30 days of publication that someone wishes to submit adverse or critical comments, the SNUR will be effective 60 days from when the notice is published. If notice is received within 30 days that someone wishes to submit adverse or critical comments, EPA will withdraw the direct final rule by publishing a notice in the final rule section of the **Federal Register**, and EPA will propose a rule in the proposed rule section of the **Federal Register**. The proposed rule will establish a 30-day comment period. EPA then will consider any comments received and decide either to issue a final rule promulgating the SNUR or withdraw the proposal.

In implementing the provisions of Subpart D, EPA intends as much as possible to include more than one SNUR in a single **Federal Register** document to provide administrative efficiencies and save publication costs. With respect to direct final rulemaking procedures, when EPA publishes a number of SNURs in a single **Federal Register** document as direct final SNURs, the person notifying EPA of intent to submit adverse or critical comments will be asked to indicate to which SNUR the comments will apply. EPA would then publish a notice in the final rule section of the **Federal Register** withdrawing only that specific direct final SNUR and publish a separate proposal for that specific SNUR. However, EPA would not withdraw the direct final SNURs which are unaffected by the person's wish to submit adverse or critical comments.

ii. *Immediately effective interim final rules.* When using the interim final rulemaking procedure, EPA will issue a notice of interim final rulemaking. The rule will be effective on the day of publication; however, EPA will accept comments for 30 days following publication. The SNUR will cease to be in effect 180 days after publication unless in the intervening time EPA has issued a final rule addressing any comments received during the 30-day comment period.

iii. *Notice and comment rulemaking.* When EPA uses notice and comment rulemaking, EPA will first issue a proposed rule in the **Federal Register** stating that a SNUR will be developed for the substance, explaining the basis for the SNUR, listing the uses it proposes to designate as significant new uses, and soliciting public comment. After consideration of any comment on the proposed SNUR, EPA will issue a final rule adding the substance to Subpart E and identifying the significant new uses and recordkeeping requirements to which the substance is subject.

The proposed version of this Subpart D called for EPA to promulgate immediately effective final SNURs. Several commenters indicated that they did not believe that the proposed process would have given an adequate opportunity for public comment on the terms of SNURs before they went into effect. EPA has modified the rule to provide for opportunity for public comment in rulemaking for all SNURs. Additionally, EPA has substantially changed its internal review process to reduce the time it takes to propose and promulgate most SNURs under this subpart. This expedited internal review procedure will provide for the speedy protection of the public and equal treatment of PMN submitters and new users as contemplated in the April 29, 1987 proposal, but will allow public comments to be reviewed before the SNUR is promulgated as a final rule.

4. *Procedures to modify or revoke SNURs for new substances.* Section 721.185 establishes procedures to modify or revoke SNURs issued under this Subpart D, and informs the public of criteria EPA will consider in determining whether to do so. EPA may at any time modify the activities designated as significant new uses of a substance, or it may entirely revoke any specific significant new use notification requirement. EPA will consider modifying or revoking a SNUR issued under the expedited procedures of Subpart D, if other considerations do not justify retaining the SNUR unchanged, when it finds that one of the criteria at § 721.185(a) is met.

The procedures established under § 721.185 to petition EPA to modify or revoke SNURs are similar to those in TSCA section 21. Section 21 does not apply to SNURs.

Decisions to revoke or limit SNUR requirements may be made either at EPA's initiative or in response to a request by interested persons. Section 721.185(c) provides that EPA will respond by certified letter to a request for modification or revocation of a SNUR and, if EPA denies the request, will explain EPA's reasons for concluding that the SNUR requirements should remain in effect. Rules revoking or limiting SNURs under § 721.185 will be issued under notice and comment rulemaking procedures. Section 721.185 will help ensure that well-founded concerns about the validity of SNUR requirements are acted on expeditiously,

and that the public understands the procedure for modifying or limiting those requirements.

D. Removal of Proposed Information Requirements Under TSCA Sections 8(a) and (d)

In the proposed rule, EPA included procedures for automatically requiring reporting for certain new substances under TSCA section 8(a) at 40 CFR Part 704 and section 8(d) at 40 CFR Part 716. A commenter suggested that EPA carefully consider the conditions under which section 8(a) reporting on a substance that has been the subject of a SNUR is appropriate. EPA has considered the need to issue these information collection rules in an expedited manner, and has decided not to do so. When section 8(a) and (d) rules are appropriate for new substances, EPA will issue them on a case-by-case basis.

IV. Economic Analysis

EPA has evaluated the potential costs and benefits of establishing significant new use requirements for manufacture, import, and processing of new chemical substances under the procedures established in this rule. EPA's complete analysis is available in the public record for this rule (OPTS-50553B). The analysis is summarized in the preamble to the proposed rule. The costs and benefits of this final rule do not vary significantly from those described in the proposal.

V. *Rulemaking Record*

EPA has established a record for this rulemaking (docket control number OPTS-50553B). The record includes basic information considered by EPA in developing this rule. The record includes the following:

1. The proposed rules.
2. Comments received on the proposals leading to this rule.
3. Summaries of public meetings held to discuss the proposed rules.
4. The economic analysis of the rule.
5. Comment response document.
6. This final rule.

This record is available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located in Rm. NE-G004, 401 M St., SW., Washington, DC.

VI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and, therefore, requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major rule" because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. EPA has determined this rule to be "significant," because it will represent a significant change in the New Chemical Follow-up Program under TSCA.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA has determined that this rule will not have a significant impact on a substantial number of small businesses. EPA cannot determine whether parties affected by this rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule will not be substantial even if all the companies affected by this rule are small companies. EPA does not expect to regulate a large number of substances annually under this rule.

C. Paperwork Reduction Act

The information collection requirements in this rule have been approved by OMB under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to average 12.2 hours per response for Subpart B, and to average 25.3 hours per response for Subpart C, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Chemicals, Confidential business information, Environmental protection, Hazardous substances, Health and safety, Imports, Recordkeeping and reporting requirements, Significant new uses.

Dated: July 14, 1989.

F. Henry Habicht,

Acting Administrator.

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

Therefore, 40 CFR Chapter I is amended as follows:

1. By revising the authority citation for Part 721 to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. In § 721.3 by alphabetically adding the following definitions:

§ 721.3 Definitions.

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"Acutely toxic effects" A chemical substance produces acutely toxic effects if it kills within a short time period (usually 14 days):

(1) At least 50 percent of the exposed mammalian test animals following oral administration of a single dose of the test substance at 25 milligrams or less per kilogram of body weight (LD_{50}).

(2) At least 50 percent of the exposed mammalian test animals following dermal administration of a single dose of the test substance at 50 milligrams or less per kilogram of body weight (LD_{50}).

(3) At least 50 percent of the exposed mammalian test animals following administration of the test substance for 8 hours or less by continuous inhalation at a steady concentration in air at 0.5 milligrams or less per liter of air (LC_{50}).

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"Chemical name" means the scientific designation of a chemical substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service's rules of nomenclature, or a name which will clearly identify a chemical substance for the purpose of conducting a hazard evaluation.

"Chemical protective clothing" means items of clothing that provide a protective barrier to prevent dermal contact with chemical substances of concern. Examples can include, but are not limited to: full body protective clothing, boots, coveralls, gloves, jackets, and pants.

"Commercial use" means the use of a chemical substance or any mixture containing the chemical substance in a commercial enterprise providing saleable goods or a service to consumers (e.g., a commercial dry cleaning establishment or painting contractor).

"Common name" means any designation or identification such as code name, code number, trade name, brand name, or generic chemical name used to identify a chemical substance other than by its chemical name.

"Consumer" means a private individual who uses a chemical substance or any product containing the chemical substance in or around a permanent or temporary household or residence, during recreation, or for any personal use or enjoyment.

"Consumer product" means a chemical substance that is directly, or as part of a mixture, sold or made available to consumers for their use in or around a permanent or temporary household or residence, in or around a school, or in recreation.

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"Director of the Office of Toxic Substances" means the Director of the EPA Office of Toxic Substances or any EPA employee delegated by the Office Director to carry out the Office Director's functions under this part.

"Employer" means any manufacturer, importer, processor, or user of chemical substances or mixtures.

"Environmentally transformed" A chemical substance is "environmentally transformed" when its chemical structure changes as a result of the action of environmental processes on it.

"Identity" means any chemical or common name used to identify a chemical substance or a mixture containing that substance.

"Immediate use" A chemical substance is for the "immediate use" of a person if it is under the control of, and used only by, the person who transferred it from a labeled container and will only be used by that person within the work shift in which it is transferred from the labeled container.

"Impervious" Chemical protective clothing is "impervious" to a chemical substance if the substance causes no chemical or mechanical degradation, permeation, or penetration of the chemical protective clothing under the conditions of, and the duration of, exposure.

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"Manufacturing stream" means all reasonably anticipated transfer, flow, or disposal of a chemical substance, regardless of physical state or concentration, through all intended operations of manufacture, including the cleaning of equipment.

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"MSDS" means material safety data sheet, the written listing of data for the chemical substance as required under § 721.72(c).

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"NIOSH" means the National Institute for Occupational Safety and Health of the U.S. Department of Health and Human Services.

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"Non-enclosed process" means any equipment system (such as an open-top reactor, storage tank, or mixing vessel) in which a chemical substance is manufactured, processed, or otherwise used where significant direct contact of the bulk chemical substance and the workplace air may occur.

"Non-industrial use" means use other than at a facility where chemical substances or mixtures are manufactured, imported, or processed.

"Personal protective equipment" means any chemical protective clothing or device placed on the body to prevent contact with, and exposure to, an identified chemical substance or substances in the work area. Examples include, but are not limited to, chemical protective clothing, aprons, hoods, chemical goggles, face splash shields, or equivalent eye protection, and various types of respirators. Barrier creams are not included in this definition.

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"Process stream" means all reasonably anticipated transfer, flow, or disposal of a chemical substance, regardless of physical state or concentration, through all intended operations of processing, including the cleaning of equipment.

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"Serious acute effects" means human injury or human disease processes that have a short latency period for development, result from short-term exposure to a chemical substance, or are a combination of these factors and which are likely to result in death or severe or prolonged incapacitation.

"Serious chronic effects" means human injury or human disease processes that have a long latency period for development, result from long-term exposure to a chemical substance, or are a combination of these factors and which are likely to result in death or severe or prolonged incapacitation.

"Short-term test indicative of carcinogenic potential" means either any limited bioassay that measures tumor or preneoplastic induction, or any test indicative of interaction of a chemical substance with DNA (i.e., positive response in assays for gene mutation, chromosomal aberrations, DNA damage and repair, or cellular transformation).

"Short-term test indicative of the potential to cause a developmentally toxic effect" means either any *in vivo* preliminary development toxicity screen conducted in a mammalian species, or any *in vitro* developmental toxicity screen, including any test system other than the intact pregnant mammal, that has been extensively evaluated and judged reliable for its ability to predict the potential to cause developmentally toxic effects in intact systems across a broad range of chemicals or within a class of chemicals that includes the substance of concern.

"Significant adverse environmental effects" means injury to the environment by a chemical substance which reduces or adversely affects the productivity, utility, value, or function of biological, commercial, or agricultural resources, or which may adversely affect a threatened or endangered species. A substance will be considered to have the potential for significant adverse environmental effects if it has one of the following:

(1) An acute aquatic EC_{50} of 1 mg/L or less.

(2) An acute aquatic EC_{50} of 20 mg/L or less where the ratio of aquatic vertebrate 24-hour to 48-hour EC_{50} is greater than or equal to 2.0.

(3) A Maximum Acceptable Toxicant Concentration (MATC) of less than or equal to 100 parts per billion (100 ppb).

(4) An acute aquatic EC_{50} of 20 mg/L or less coupled with either a measured bioconcentration factor (BCF) equal to or greater than 1,000x or in the absence of bioconcentration data a log P value equal to or greater than 4.3.

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"Use stream" means all reasonably anticipated transfer, flow, or disposal of a chemical substance, regardless of physical state or concentration, through all intended operations of industrial, commercial, or consumer use.

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"Work area" means a room or defined space in a workplace where a chemical substance is manufactured, processed, or used and where employees are present.

"Workplace" means an establishment at one geographic location containing one or more work areas.

3. By adding a new Subpart B to Part 721 to read as follows:

Subpart B—Certain Significant New Uses

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Subpart B—Certain Significant New Uses

§ 721.50 Applicability.

This Subpart B identifies certain significant new uses of chemical substances identified in Subpart E of this part. The provisions of this Subpart B apply only when referenced as applying to a chemical substance identified in Subpart E of this part.

§ 721.63 Protection in the workplace.

(a) Whenever a substance is identified in Subpart E of this part as being subject to this section, a significant new use of the substance is any manner or method of manufacturing, importing, or processing associated with any use of the substance without establishing a program whereby:

(1) Each person who is reasonably likely to be dermally exposed in the work area to the chemical substance through direct handling of the substance or through contact with equipment on which the substance may exist, or because the substance becomes airborne in the form listed in paragraph (a)(6) of this section, and cited in Subpart E of this part for the chemical substance, is provided with, and is required to wear, personal protective equipment that provides a barrier to prevent dermal exposure to the substance in the specific work area where it is selected for use. Each such item of personal protective equipment must be selected and used in accordance with 29 CFR 1910.132 and 1910.133.

(2) In addition to any other personal protective equipment selected in paragraph (a)(1) of this section, the following items are required:

(i) Gloves.

(ii) Full body chemical protective clothing.

(iii) Chemical goggles or equivalent eye protection.

(iv) Clothing which covers any other exposed areas of the arms, legs, and torso. Clothing provided under this paragraph need not be tested or evaluated under the requirements of paragraph (a)(3) of this section.

(3) The employer is able to demonstrate that each item of chemical protective clothing, including gloves, selected provides an impervious barrier to prevent dermal exposure during normal and expected duration and conditions of exposure within the work area by any one or a combination of the following:

(i) Testing the material used to make the chemical protective clothing and the construction of the clothing to establish that the protective clothing will be impervious for the expected duration and conditions of exposure. The testing must subject the chemical protective clothing to the expected conditions of exposure, including the likely combinations of chemical substances to which the clothing may be exposed in the work area.

(ii) Evaluating the specifications from the manufacturer or supplier of the chemical protective clothing, or of the material used in construction of the clothing, to establish that the chemical protective clothing will be impervious to the chemical substance alone and in likely combination with other chemical substances in the work area.

(4) Each person who is reasonably likely to be exposed to the chemical substance by inhalation in the work area in one or more of the forms listed in paragraph (a)(6) of this section and cited in Subpart E of this part for the chemical substance, is provided with, and is required to wear, at a minimum, a NIOSH- approved respirator from one of the categories listed in paragraph (a)(5) of this section, and the respirator is used in accordance with 29 CFR 1910.134 and 30 CFR Part 11.

(5) The following NIOSH approved respirators meet the minimum requirements for paragraph (a)(4) of this section:

(i) Category 19C Type C supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a full facepiece.

(ii) Category 19C Type C supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a tight-fitting facepiece.

(iii) Category 19C Type C supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet or tight-fitting facepiece.

(iv) Category 21C air-purifying respirator equipped with a full facepiece and high efficiency particulate filters.

(v) Category 21C powered air-purifying respirator equipped with a tight-fitting facepiece and high efficiency particulate filters.

(vi) Category 21C powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate filters.

(vii) Category 21C air-purifying respirator equipped with a high efficiency particulate filter including disposable respirators.

(viii) Category 23C air-purifying respirator equipped with a full facepiece and combination cartridges approved for paints, lacquers, and enamels. (Approval label may preclude use for some paints, lacquers, or enamels.)

(ix) Category 23C powered air-purifying respirator equipped with a tight-fitting facepiece and combination cartridges approved for paints, lacquers, and enamels. (Approval label may preclude use for some paints, lacquers, or enamels.)

(x) Category 23C powered air-purifying respirator equipped with a loose-fitting hood or helmet and combination cartridges approved for paints, lacquers, and enamels. (Approval label may preclude use for some paints, lacquers, or enamels.)

(xi) Category 23C air-purifying respirator equipped with combination cartridges approved for paints, lacquers, and enamels, including disposable respirators. (Approval label may preclude use for some paints, lacquers, or enamels.)

(xii) Category 23C air-purifying respirator equipped with a full facepiece and organic gas/vapor cartridges.

(xiii) Category 23C powered air-purifying respirator equipped with a tight-fitting facepiece and organic gas/vapor cartridges.

(xiv) Category 23C powered air-purifying respirator equipped with a loose-fitting hood or helmet and organic gas/vapor cartridges.

(xv) Category 23C air-purifying respirator equipped with organic gas/vapor cartridges, including disposable respirators.

(6) When cited in Subpart E of this part for a substance, the following airborne form(s) of the substance apply to paragraphs (a)(1) and (4) of this section:

(i) Dust.

(ii) Mist.

(iii) Fume.

(iv) Smoke.

(v) Vapor.

(vi) Gas.

(b) If a substance identified in Subpart E of this part is present in the work area only as a mixture, an employer is exempt from the provisions of this section if the concentration of the substance in the mixture does not exceed a concentration set in Subpart E of this part. The exemption does not apply if the employer has reason to believe that during intended use or processing in the work area, the substance in the mixture may be concentrated above the level set in Subpart E of this part.

(c)(1) If at any time after commencing distribution in commerce of a chemical substance that is identified in Subpart E of this part as subject to this section, the

person has knowledge that a recipient of the substance is engaging in an activity that is not consistent with the implementation of a program specified in paragraph (a) of this section, the person is considered to have knowledge that the recipient is engaging in a significant new use and is required to follow the procedures in § 721.5(d) unless the person is able to document the following:

(i) That the person has notified the recipient in writing within 15 working days of the time the person first has knowledge that the recipient is engaging in an activity that is not consistent with the implementation of a program specified in paragraph (a) of this section, and that the person has knowledge of the failure of implementation.

(ii) That within 15 working days of notifying the recipient that the recipient is engaging in an activity that is not consistent with the implementation of a program specified in paragraph (a) of this section the person has received from the recipient, in writing, a statement of assurance that the recipient has established the program required under paragraph (a) of this section, and will take appropriate measures to avoid activities that are inconsistent with implementation of the program required under paragraph (a) of this section.

(2) If, after receiving a statement of assurance from a recipient under paragraph (c)(1)(ii) of this section, a manufacturer, importer, or processor has knowledge that the recipient is engaging in an activity that is not consistent with the implementation of the program specified in paragraph (a) of this section, that person is considered to have knowledge that the person is engaging in a significant new use and is required to follow the procedures in § 721.5(d).

§ 721.72 Hazard communication program.

Whenever a substance is identified in Subpart E of this part as being subject to this section, a significant new use of that substance is any manner or method of manufacture, import, or processing associated with any use of that substance without establishing a hazard communication program as described in this section.

(a) *Written hazard communication program.* Each employer shall develop and implement a written hazard communication program for the substance in each workplace. The written program will, at a minimum, describe how the requirements of this section for labels, MSDSs, and other forms of warning material will be satisfied. The employer must make the written hazard communication program available, upon request, to all employees, contractor employees, and their designated representatives. The employer may rely on an existing hazard communication program, including an existing program established under the Occupational Health and Safety Administration (OSHA) Hazard Communication Standard (29 CFR 1900.1200), to comply with this paragraph provided that the existing hazard communication program satisfies the requirements of this paragraph. The written program shall include the following:

(1) A list of each substance identified in Subpart E of this part as subject to this section known to be present in the work area. The list must be maintained in the work area and must use the identity provided on the appropriate MSDS for each substance required under paragraph (c) of this section. The list may be compiled for the workplace or for individual work areas.

(2) The methods the employer will use to inform employees of the hazards of non-routine tasks involving the substance, for example, the cleaning of reactor vessels, and the hazards associated with the substance contained in unlabeled pipes in their work area.

(3) The methods the employer will use to inform contractors of the presence of the substance in the employer's workplace and of the provisions of this part applicable to the substance if employees of the contractor work in the employer's workplace and are reasonably likely to be exposed to the substance while in the employer's workplace.

(b) *Labeling.* (1) Each employer shall ensure that each container of the substance in the workplace is labeled in accordance with this paragraph (b)(1).

(i) The label shall, at a minimum, contain the following information:

(A) A statement of health hazard(s) and precautionary measure(s) for the substance, if any, identified in Subpart E of this part or by the employer.

(B) The identity by which the substance may be commonly recognized.

(C) A statement of environmental hazard(s) and precautionary measure(s) for the substance, if any, identified in Subpart E of this part or by the employer.

(D) A statement of exposure and precautionary measure(s), if any, identified in Subpart E of this part or by the employer.

(ii) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys information specified by paragraph (b)(1)(i) of this section. Any written materials must be readily accessible to the employees in their work areas throughout each work shift.

(iii) The employer need not label portable containers into which the substance is transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer.

(iv) The employer shall not remove or deface an existing label on incoming containers of the substance unless the container is immediately relabeled with the information specified in paragraph (b)(1)(i) of this section.

(2) Each employer shall ensure that each container of the substance leaving its workplace for distribution in commerce is labeled in accordance with this paragraph.

(i) The label shall, at a minimum, contain the following information:

(A) The information required under paragraph (b)(1)(i) of this section.

(B) The name and address of the manufacturer or a responsible party who can provide additional information on the substance for hazard evaluation and any appropriate emergency procedures.

(ii) The label shall not conflict with the requirements of the Hazardous Materials Transportation Act (18 U.S.C. 1801 et. seq.) and regulations issued under that Act by the Department of Transportation.

(3) The label, or alternative forms of warning, shall be legible and prominently displayed.

(4) The label, or alternative forms of warning, shall be in English; however, the information may be repeated in other languages.

(5) If the label or alternative form of warning is to be applied to a mixture containing a substance identified in Subpart E of this part as subject to this section in combination with another substance identified in Subpart E of this part and/or a substance defined as a "hazardous chemical" under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR 1900.1200), the employer may prescribe on the label, MSDS, or alternative form of warning, the measures to control worker exposure or environmental release which the employer determines provide the greatest degree of protection. However, should these control measures differ from the applicable measures required under Subpart E of this part, the employer

must seek a determination of equivalency for such alternative control measures pursuant to § 721.30 before prescribing them under this paragraph.

(c) *Material safety data sheets.* (1) Each employer must obtain or develop a MSDS for the substance.

(2) Each MSDS shall contain, at a minimum, the following information:

(i) The identity used on the container label of the substance under this section, and, if not claimed confidential, the chemical and common name of the substance. If the chemical and common name are claimed confidential, a generic chemical name must be used.

(ii) Physical and chemical characteristics of the substance known to the employer (such as vapor pressure, flash point).

(iii) The physical hazards of the substance known to the employer, including the potential for fire, explosion, and reactivity.

(iv) The potential human and environmental hazards as specified in Subpart E of this part for the substance.

(v) Signs and symptoms of exposure, and any medical conditions which are expected to be aggravated by exposure to the substance known to the employer.

(vi) The primary routes of exposure to the substance.

(vii) Precautionary measures to control worker exposure and/or environmental release identified in Subpart E of this part for the substance, or alternative control measures which EPA has determined under § 721.30 provide substantially the same degree of protection as the identified control measures.

(viii) Any generally applicable precautions for safe handling and use of the substance which are known to the employer, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for response to spills and leaks.

(ix) Any generally applicable control measures which are known to the employer, such as appropriate engineering controls, work practices, or personal protective equipment.

(x) Emergency first aid procedures known to the employer.

(xi) The date of preparation of the MSDS or of its last revision.

(xii) The name, address, and telephone number of the individual preparing or distributing the MSDS, or a responsible party who can provide additional information on the substance for hazard evaluation and any appropriate emergency procedures.

(3) If no relevant information is found or known for any given category on the MSDS, the employer must mark the MSDS to indicate that no applicable information was found.

(4) Where multiple mixtures containing the substance have similar compositions (i.e., the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture) and similar hazards, the employer may prepare one MSDS to apply to all of these multiple mixtures.

(5) If the employer becomes aware of any significant new information regarding the hazards of the substance or ways to protect against the hazards, this new information must be added to the MSDS within 3 months from the time the employer becomes aware of the new information. If the substance is not currently being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to the MSDS before the substance is reintroduced into the workplace.

(6) The employer must ensure that persons receiving the substance from the employer are provided an appropriate MSDS with their initial shipment and with the first shipment after an MSDS is revised. The employer may either provide the MSDS with the shipped containers or send it to the person prior to or at the time of shipment.

(7) The employer must maintain a copy of the MSDS in its workplace, and must ensure that it is readily accessible during each work shift to employees when they are in their work areas.

(8) The MSDS may be kept in any form, including as operating procedures, and may be designed to cover groups of substances in a work area where it may be more appropriate to address the potential hazards of a process rather than individual substances. However, in all cases, the required information must be provided for each substance and must be readily accessible during each work shift to employees when they are in their work areas.

(9) The MSDS must be printed in English; however, the information may be repeated in other languages.

(d) *Employee information and training.* Each employer must ensure that employees are provided with information and training on the substance identified in Subpart E of this part. This information and training must be provided at the time of each employee's initial assignment to a work area containing the substance and whenever the substance subject to this section is introduced into the employee's work area for the first time.

(1) Information provided to employees under this paragraph shall include:

(i) The requirements of this section.

(ii) Any operations in the work area where the substance is present.

(iii) The location and availability of the written hazard communication program required under paragraph (a) of this section, including the list of substances identified in Subpart E of this part as subject to this section, and MSDSs required by paragraph (c) of this section.

(2) Training provided to employees shall include:

(i) Methods and observations that may be used to detect the presence or release of the substance in or from an employee's work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance, or odor of the substance when being released).

(ii) The potential human health and environmental hazards of the substance as specified in Subpart E of this part.

(iii) The measures employees can take to protect themselves and the environment from the substance, including specific procedures the employer has implemented to protect employees and the environment from exposure to the substance, including appropriate work practices, emergency procedures, personal protective equipment, engineering controls, and other measures to control worker exposure and/or environmental release required under Subpart E of the part, or alternative control measures which EPA has determined under § 721.30 provide substantially the same degree of protection as the specified control measures.

(iv) The requirements of the hazard communication program developed by the employer under this section, including an explanation of the labeling system and the MSDS required by this section and guidance on obtaining and using appropriate hazard information.

(e) *Low concentrations in mixtures.* If a substance identified in Subpart E of this part is present in the work area only as a mixture, an employer is exempt from the provisions of this section if the concentration of the substance in the mixture does not exceed a concentration set in Subpart E of this part. The exemption does not apply if the employer has reason to believe that during intended use or processing in the work area, the substance in the mixture may be concentrated above the level set in Subpart E of this part.

(f) *Existing hazard communication program.* The employer need not take additional actions if existing programs and procedures satisfy the requirements of this section.

(g) *Human health, environmental hazard, exposure, and precautionary statements.* Whenever referenced in Subpart E of this part for a substance, the following human health and environmental hazard, exposure, and precautionary statements shall appear on each label as specified in paragraph (b) of this section and the MSDS as specified in paragraph (c) of this section. Additional statements may be included as long as they are true and do not alter the meaning of the required statements.

(1) Human health hazard statements: This substance may cause:

(i) Skin irritation.

(ii) Respiratory complications.

(iii) Central nervous system effects.

(iv) Internal organ effects.

(v) Birth defects.

(vi) Reproductive effects.

(vii) Cancer.

(viii) Immune system effects.

(ix) Developmental effects.

(2) Human health hazard precautionary statements: When using this substance:

(i) Avoid skin contact.

(ii) Avoid breathing substance.

(iii) Avoid ingestion.

(iv) Use respiratory protection.

(v) Use skin protection.

(3) Environmental hazard statements: This substance may be:

(i) Toxic to fish.

(ii) Toxic to aquatic organisms.

(4) Environmental hazard precautionary statements: Notice to users:

(i) Disposal restrictions apply.

(ii) Spill clean-up restrictions apply.

(iii) Do not release to water.

(5) Each human health or environmental hazard precautionary statement identified in Subpart E of this part for the label on the substance container must be followed by the statement, "See MSDS for details."

§ 721.80 Industrial, commercial, and consumer activities.

Whenever a substance is identified in Subpart E of this part as being subject to this section, a significant new use of the substance is:

(a) Use in non-enclosed processes.

(b) Any manner or method of manufacture in non-enclosed processes associated with any use.

(c) Any manner or method of processing in non-enclosed processes associated with any use.

(d) Use beyond the site of manufacture or import.

(e) Processing beyond the site of manufacture or import.

(f) Any manner or method of manufacture (excluding import) of the substance associated with any use.

(g) Use other than as an intermediate.

(h) Use other than as a site-limited intermediate.

(i) Use as an intermediate where the concentration of the intermediate substance in the product intended for distribution in commerce exceeds the concentration specified in Subpart E of this part for the substance.

(j) Use other than as described in the premanufacture notice referenced in Subpart E of this part for the substance.

(k) Use other than allowed by the section 5(e) consent order referenced in Subpart E of this part for the substance.

(l) Non-industrial use.

(m) Commercial use.

(n) Non-commercial use.

(o) Use in a consumer product.

(p) Aggregate manufacture and importation volume for any use greater than that specified in Subpart E of this part for the substance.

(q) Aggregate manufacture and importation volume for any use greater than that allowed by the section 5(e) consent order referenced in Subpart E of this part for the substance.

(r) Aggregate manufacture and importation volume for any use greater than that specified in Subpart E of this part for the substance unless the manufacturer or importer has submitted the results of the health or environmental effects studies identified in Subpart E of this part for the substance and those studies comply with the procedures and criteria for developing and evaluating data identified in Subpart E of this part for the substance.

(s) Annual manufacture and importation volume for any use greater than that specified in Subpart E of this part for the substance.

(t) Annual manufacture and importation volume for any use greater than that allowed by the section 5(e) consent order referenced in Subpart E of this part for the substance.

(u) Annual manufacture and importation volume for any use greater than that specified in Subpart E of this part for the substance unless the manufacturer or importer has submitted the results of the health or environmental effects studies identified in Subpart E of this part for the substance and those studies comply with the procedures and criteria for developing and evaluating data identified in Subpart E of this part for the substance.

(v) Use in the form of:

(1) A powder.

(2) A solid.

(3) A liquid.

(4) A gas.

(w) Any manner or method of manufacture of the substance in the following form associated with any use:

(1) A powder.

(2) A solid.

(3) A liquid.

(4) A gas.

(x) Any manner or method of processing of the substance in the following form associated with any use:

(1) A powder.

(2) A solid.

(3) A liquid.

(4) A gas.

(y) Use involving an application method that generates:

(1) A vapor, mist, or aerosol.

(2) A dust.

§ 721.85 Disposal.

Whenever a substance is identified in Subpart E of this part as being subject to this section, a significant new use of the substance is any method of:

(a) Disposal of the process stream associated with any use of the substance or with any manner or method of manufacturing associated with any use of the substance other than by the following. This provision does not supercede any applicable Federal, State, or local laws and regulations.

(1) Incineration.

(2) Landfill.

(3) Deep well injection.

(b) Disposal of the process stream associated with any use or with any manner or method of processing associated with any use other than by the following. This provision does not supercede any applicable Federal, State, or local laws and regulations.

(1) Incineration.

(2) Landfill.

(3) Deep well injection.

(c) Disposal of the use stream associated with any use, other than by the following. This provision does not supercede any applicable Federal, State, or local laws and regulations.

(1) Incineration.

(2) Landfill.

(3) Deep well injection.

(d) Disposal of the substance associated with any use of the substance, or with any manner or method of manufacture or processing in association with any use. This provision does not supercede any applicable Federal, State, or local laws and regulations.

§ 721.90 Release to water.

Whenever a substance is identified in Subpart E of this part as being subject to this section, a significant new use of the substance is:

(a) Any predictable or purposeful release of a manufacturing stream associated with any use of the substance, from any site:

(1) Into the waters of the United States.

(2) Into the waters of the United States without application of one or more of the following treatment technologies as specified in Subpart E of this part either by the discharger or, in the case of a release through publicly-owned treatment works, by a combination of treatment by the discharger and the publicly-owned treatment works:

(i) Chemical precipitation and settling.

(ii) Biological treatment (activated sludge or equivalent) plus clarification.

(iii) Steam stripping.

(iv) Resin or activated carbon adsorption.

(v) Chemical destruction or conversion.

(vi) Primary wastewater treatment.

(3) Into the waters of the United States without primary wastewater treatment, and secondary wastewater treatment as defined in 40 CFR Part 133.

(4) Into the waters of the United States if the quotient from the following formula:

$$\frac{\text{number of kilograms/day/site released}}{\text{receiving stream flow (million liters/day)}} \times 1000 = \text{N parts per billion}$$

exceeds the level specified in Subpart E of this part when calculated using the methods described in § 721.91. In lieu of calculating the above quotient, monitoring or alternative calculations may be used to predict the surface water concentration which will result from the intended release of the substance, if the monitoring procedures or calculations have been approved for such purpose by EPA. EPA will review and act on written requests to approve monitoring procedures or alternative calculations within 90 days after such requests are received. EPA will inform submitters of the disposition of such requests in writing, and will explain the reasons therefor when they are denied.

(b) Any predictable or purposeful release of a process stream containing the substance associated with any use of the substance from any site:

(1) Into the waters of the United States.

(2) Into the waters of the United States without application of one or more of the following treatment technologies as specified in Subpart E of this part either by the discharger or, in the case of a release through publicly-owned treatment works, by a combination of treatment by the discharger and the publicly-owned treatment works:

(i) Chemical precipitation and settling.

(ii) Biological treatment (activated sludge or equivalent) plus clarification.

(iii) Steam stripping.

(iv) Resin or activated carbon adsorption.

(v) Chemical destruction or conversion.

(vi) Primary wastewater treatment.

(3) Into the waters of the United States without primary wastewater treatment, and secondary wastewater treatment as defined in 40 CFR Part 133.

(4) Into the waters of the United States if the quotient from the following formula:

$$\frac{\text{number of kilograms/day/site released}}{\text{receiving stream flow (million liters/day)}} \times 1000 = \text{N parts per billion}$$

exceeds the level specified in Subpart E of this part when calculated using the methods described in § 721.91. In lieu of calculating the above quotient, monitoring or alternative calculations may be used to predict the surface water concentration which will result from the intended release of the substance, if the monitoring procedures or calculations have been approved for such purpose by EPA. EPA will review and act on written requests to approve monitoring procedures or alternative calculations within 90 days after such requests are received. EPA will inform submitters of the disposition of such requests in writing, and will explain the reasons therefor when they are denied.

(c) Any predictable or purposeful release of a use stream containing the substance associated with any use of the substance from any site:

(1) Into the waters of the United States.

(2) Into the waters of the United States without application of one or more of the following treatment technologies as specified in Subpart E of this part either by the discharger or, in the case of a release through publicly-owned treatment works, by a combination of treatment by the discharger and the publicly-owned treatment works:

(i) Chemical precipitation and settling.

(ii) Biological treatment (activated sludge or equivalent) plus clarification.

(iii) Steam stripping.

(iv) Resin or activated carbon adsorption.

(v) Chemical destruction or conversion.

(vi) Primary wastewater treatment.

(3) Into the waters of the United States without primary wastewater treatment, and secondary wastewater treatment as defined in 40 CFR Part 133.

(4) Into the waters of the United States if the quotient from:

$$\frac{\text{number of kilograms/day/site released}}{\text{receiving stream flow (million liters/day)}} \times 1000 = \text{N parts per billion}$$

exceeds the level specified in Subpart E of this part, when calculated using the methods described in § 721.91. In lieu of calculating the above quotient, however, monitoring or alternative calculations may be used to predict the surface water concentration expected to result from intended release of the substance, if the monitoring procedures or calculations have been approved for such purpose by EPA. EPA will review and act on written requests to approve monitoring procedures or alternative calculations within 90 days after such requests are received. EPA will inform submitters of the disposition of such requests in writing, and will explain the reasons therefor when they are denied.

§ 721.91 Computation of estimated surface water concentrations: instructions.

These instructions describe the use of the equation specified in § 721.90(a)(4) and (b)(4) to compute estimated surface water concentrations which will result from release of a substance identified in Subpart E of this part. The equation shall be computed for each site using the stream flow rate appropriate for the site according to paragraph (b) of this section, and the highest number of kilograms calculated to be released for that site on a given day according to paragraph (a) of this section. Two variables shall be considered in computing the equation, the number of kilograms released, and receiving stream flow.

(a) *Number of kilograms released.* (1) To calculate the number of kilograms of substance to be released from manufacturing, processing, or use operations, as specified in the numerator of the equation, develop a process description diagram which describes each manufacturing, processing, or use operation involving the substance. The process description must include the

major unit operation steps and chemical conversions. A unit operation is a functional step in a manufacturing, processing, or use operation where substances undergo chemical changes and/or changes in location, temperature, pressure, physical state, or similar characteristics. Include steps in which the substance is formulated into mixtures, suspensions, solutions, etc.

(2) Indicate on each diagram the entry point of all feedstocks (e.g., reactants, solvents, and catalysts) used in the operation. Identify each feedstock and specify its approximate weight regardless of whether the process is continuous or batch.

(3) Identify all release points from which the substance or wastes containing the substance will be released into air, land, or water. Indicate these release points on the diagram. Do not include accidental releases or fugitive emissions.

(4) For releases identified in the diagram that are destined for water, estimate the amount of substance that will be released before the substance enters control technology. The kilograms of substance released may be estimated based on:

(i) The mass balance of the operation, i.e., totaling inputs and outputs, including wastes for each part of the process such that outputs equal inputs. The amount released to water may be the difference between the amount of the substance in the starting material (or formed in a reaction) minus the amount of waste material removed from each part of the process and not released to water and the amount of the substance in the final product.

(ii) Physical properties such as water solubility where a known volume of water being discharged is assumed to contain the substance at concentrations equal to its solubility in water. This approach is particularly useful where the waste stream results from separation of organic/water phases or filtration of the substance from an aqueous stream to be discharged.

(iii) Measurements of flow rates of the process/use stream and known concentrations of the substance in the stream.

(5) After releases of a substance to water are estimated for each operation on a site, total the releases of the substance to water from all operations at that site. The value (number of kilograms) specified in the numerator of the equation should reflect total kilograms of substance released to water per day from all operations at a single site.

(6) Use the highest expected daily release of the substance for each site.

(b) *Receiving stream flow.* (1) The receiving stream flow shall be expressed in million liters per day (MLD). The flow rate data to be used must be for the point of release on the water body that first receives release of the substance whether by direct discharge from a site, or by indirect discharge through a Publicly-Owned Treatment Works (POTW) for each site. The flow rate reported shall be the lowest 7-day average stream flow with a recurrence interval of 10 years (7-Q- 10). If the 7-Q-10 flow rate is not available for the actual point of release, the stream flow rate should be used from the U.S. Geological Survey (USGS) gauging station that is nearest the point of release that is expected to have a flow rate less than or equal to the receiving stream flow at the point of release.

(2) Receiving stream flow data may be available from the National Pollutant Discharge Elimination System (NPDES) permit for the site or the POTW releasing the substance to surface water, from the NPDES permit-writing authority for the site or the POTW, or from USGS publications, such as the water-data report series.

(3) If receiving stream flow data are not available for a stream, either the value of 10 MLD or the daily flow of wastewater from the site or the POTW releasing the substance must be used as an assumed minimum stream flow. Similarly, if stream flow data are not available because the location of the point of release of the substance to surface water is a lake, estuary, bay, or ocean, then the flow rate to be used must be the daily flow of wastewater from the site or the POTW releasing the substance to surface water. Wastewater flow data may be available from the NPDES permit or NPDES authority for the site or the POTW releasing the substance to water.

4. By adding a new Subpart C to Part 721 to read as follows:

Subpart C—Recordkeeping Requirements

Sec.
721.100 Applicability.
721.125 Recordkeeping requirements.

Subpart C—Recordkeeping Requirements

§ 721.100 Applicability.

This Subpart C identifies certain additional recordkeeping requirements applicable to manufacturers, importers, and processors of substances identified in Subpart E of this part for each specific substance. The provisions of this Subpart C apply only when referenced in Subpart E of this part for a substance and significant new use identified in that Subpart E. If the provisions in this Subpart C conflict with general provisions of Subpart A of this part, the provisions of this Subpart C shall apply.

§ 721.125 Recordkeeping requirements.

At the time EPA adds a substance to Subpart E of this part, EPA will specify appropriate recordkeeping requirements which correspond to the significant new use designations for the substance selected from Subpart B of this part. Each manufacturer, importer, and processor of the substance shall maintain the records for 5 years from the date of their creation. In addition to the records specified in § 721.40, the records whose maintenance this section requires may include the following:

(a) Records documenting the manufacture and importation volume of the substance and the corresponding dates of manufacture and import.

(b) Records documenting volumes of the substance purchased in the United States by processors of the substance, names and addresses of suppliers, and corresponding dates of purchase.

(c) Records documenting the names and addresses (including shipment destination address, if different) of all persons outside the site of manufacture, importation, or processing to whom the manufacturer, importer, or processor directly sells or transfers the substance, the date of each sale or transfer, and the quantity of the substance sold or transferred on such date.

(d) Records documenting establishment and implementation of a program for the use of any applicable personal protective equipment required under § 721.63.

(e) Records documenting the determinations required by § 721.63(a)(3) that chemical protective clothing is impervious to the substance.

(f) Records documenting establishment and implementation of the hazard communication program required under § 721.72.

(g) Copies of labels required under § 721.72(b).

(h) Copies of material safety data sheets required under § 721.72(c).

(i) Records documenting compliance with any applicable industrial, commercial, and consumer use limitations under § 721.80.

(j) Records documenting compliance with any applicable disposal requirements under § 721.85, including the method of disposal, location of disposal sites, dates of disposal, and volume of the substance disposed. Where the estimated disposal volume is not known to or reasonably

ascertainable by the manufacturer, importer, or processor, that person must maintain other records which demonstrate establishment and implementation of a program that ensures compliance with any applicable disposal requirements.

(k) Records documenting establishment and implementation of procedures that ensure compliance with any applicable water discharge limitations under § 721.90.

5. By adding a new Subpart D to Part 721 to read as follows:

Subpart D—Expedited Process for Issuing Significant New Use Rules for Selected Chemical Substances and Limitation or Revocation of Selected Significant New Use Rules

Sec.

Subpart D—Expedited Process for Issuing Significant New Use Rules for Selected Chemical Substances and Limitation or Revocation of Selected Significant New Use Rules

§ 721.160 Notification requirements for new chemical substances subject to section 5(e) orders.

(a) *Selection of substances.* (1) In accordance with the expedited process specified in this section, EPA will issue significant new use notification requirements and other specific requirements for each new chemical substance that is the subject of a final order issued under section 5(e) of the Act, except for an order that prohibits manufacture and import of the substance, unless EPA determines that significant new use notification requirements are not needed for the substance.

(2) If EPA determines that significant new use notification requirements are not needed for a substance that is subject to a final order issued under section 5(e) of the Act, except for an order that prohibits manufacture or import of the substance, EPA will issue a notice in the **Federal Register** explaining why the significant new use requirements are not needed.

(b) *Designation of requirements.* (1) The significant new use notification and other specific requirements will be based on and be consistent with the provisions included in the final order issued for the substance under section 5(e) of the Act. EPA may also designate additional activities as significant new uses which will be subject to notification. Designation of additional activities as significant new uses will be done in accordance with the criteria and procedures under § 721.170, or through a separate rulemaking proceeding.

(2) Significant new use requirements and other specific requirements designated under this section will be listed in Subpart E of this part. For each substance, Subpart E will identify:

(i) The chemical name.

(ii) The activities designated as significant new uses.

(iii) Other specific requirements applicable to the substance, including recordkeeping requirements or any other requirements included in the final section 5(e) order.

(c) *Procedures for issuing significant new use rules.* (1) EPA will issue significant new use rules under this section by one of the following three processes: direct final rulemaking, interim final rulemaking, or notice and comment rulemaking. EPA will use the direct final rulemaking process to issue significant new use rules unless it determines that, in a particular case, one of the other processes is more appropriate.

(2) **Federal Register** documents issued to propose or establish significant new uses under this section will contain the following:

(i) The chemical identity of the substance or, if its specific identity is claimed confidential, an appropriate generic chemical name and an accession number assigned by EPA.

(ii) The premanufacture notice number.

(iii) The CAS number, where available and not claimed confidential.

(iv) A summary of EPA's findings under section 5(e)(1)(A) of the Act for the final order issued under section 5(e).

(v) Designation of the significant new uses subject to, or proposed to be subject to, notification and any other applicable requirements.

(vi) Any modifications of Subpart A of this part applicable to the specific substance and significant new uses.

(vii) If the **Federal Register** document establishes a final rule, or notifies the public that a final rule will not be issued after public comment has been received, the document will describe comments received and EPA's response.

(3) *Direct final rulemaking.* (i) When EPA uses the direct final rulemaking procedure to issue a significant new use rule, it will issue a final rule in the **Federal Register** following its decision to develop a significant new use rule under this section for a specific new chemical substance.

(ii) The **Federal Register** document will state that, unless written notice is received by EPA within 30 days of publication that someone wishes to submit adverse or critical comments, the rule will be effective 60 days from the date of publication. The written notice of intent to submit adverse or critical comments should state which SNUR(s) will be the subject of the adverse or critical comments, if several SNURs are established through the direct final rule. If notice is received within 30 days that someone wishes to submit adverse or critical comments, the section(s) of the direct final rule containing the SNUR(s) for which a notice of intent to comment was received will be withdrawn by EPA issuing a document in the final rule section of the **Federal Register**, and a proposal will be published in the proposed rule section of the **Federal Register**. The proposal will establish a 30-day comment period.

(iii) If EPA, having considered any timely comments submitted in response to the proposal, decides to establish notification requirements under this section, EPA will issue a final rule adding the substance to Subpart E of this part and designating the significant new uses subject to notification.

(4) *Notice and comment rulemaking.* (i) When EPA uses a notice and comment procedure to issue a significant new use rule, EPA will issue a proposal in the **Federal Register** following its decision to develop a significant new use rule under this section for a specific new chemical substance. Persons will be given 30 days to comment on whether EPA should establish notification requirements for the substance under this part.

(ii) If EPA, having considered any timely comments, decides to establish notification requirements under this section, EPA will issue a final rule adding the substance to Subpart E of this part and designating the significant new uses subject to notification.

(5) *Interim final rulemaking.* (i) When EPA uses the interim final rulemaking procedure to issue a significant new use rule, EPA will issue an interim final rule in the final rule section of the **Federal Register** following its decision to develop a significant new use rule for a specific new chemical substance. The document will state EPA's reasons for using the interim final rulemaking procedure.

(A) The significant new use rule will take effect on the date of publication.

(B) Persons will be given 30 days from the date of publication to submit comments.

(ii) Interim final rules issued under this section shall cease to be in effect 180 days after publication unless, within the 180-day period, EPA issues a final rule in the **Federal Register** responding to any written comments received during the 30-day comment period specified in paragraph (c)(5)(i)(B) of this section and promulgating final significant new use notification requirements and other requirements for the substance.

(d) *Schedule for issuing significant new use rules.* (1) Unless EPA determines that a significant new use rule should not be issued under this section, EPA will issue a proposed rule, a direct final rule, or an interim final rule within 180 days of receipt of a valid notice of commencement under § 720.102 of this chapter for any substance for which the notice of commencement was received on or after October 10, 1989.

(2) Unless EPA determines that a significant new use rule should not be issued under this section, EPA will issue a proposed rule, a direct final rule, or an interim final rule within 1 year of October 10, 1989, for any substance for which the valid notice of commencement under § 720.102 of this chapter was received before October 10, 1989.

(3) If EPA receives adverse or critical significant comments following publication of a proposed or interim final rule, EPA will either withdraw the rule or issue a final rule addressing the comments received.

§ 721.170 Notification requirements for selected new chemical substances that have completed premanufacture review.

(a) *Selection of substances.* In accordance with the expedited process specified in this section, EPA may issue significant new use notification and recordkeeping requirements for any new chemical substance for which a premanufacture notice has been submitted under Part 720 of this chapter if EPA determines that activities other than those described in the premanufacture notice may result in significant changes in human exposure or environmental release levels and/or that concern exists about the substance's health or environmental effects.

(b) *Concern criteria.* EPA may determine that concern exists about a substance's health or environmental effects if EPA makes any one of the following findings:

(1)(i) The substance may cause carcinogenic effects because the substance:

(A) Has been shown by valid test data to cause carcinogenic effects in humans or in at least one species of laboratory animal.

(B) Has been shown to be a possible carcinogen based on the weight of the evidence in short-term tests indicative of the potential to cause carcinogenic effects.

(C) Is closely analogous, based on toxicologically relevant similarities in molecular structure and physical properties, to another substance that has been shown by test data to cause carcinogenic effects in humans or in at least one species of laboratory animal, provided that if there is more than one such analogue, the greatest weight will be given to the relevant data for the most appropriate analogues.

(D) Is known or can reasonably be anticipated, based on valid scientific data or established scientific principles, to be metabolized in humans or transformed in the environment to a substance which may have the potential to cause carcinogenic effects under the criteria in paragraphs (b) (1)(i)(A), (B), or (C) of this section.

(ii) No substance may be regulated based on a finding under paragraph (b)(1) of this section unless EPA has also made the finding under § 721.170(c)(2)(ii).

(2) The substance has been shown by valid test data to cause acutely toxic effects in at least one species of laboratory animal or is closely analogous, based on toxicologically relevant similarities in molecular structure and physical properties, to another substance that has been shown by valid test data to cause acutely toxic effects in at least one species of laboratory animal, provided that if there is more than one such analogue, the greatest weight will be given to the relevant data for the most appropriate analogues.

(3) The substance may cause serious chronic effects, serious acute effects, or developmentally toxic effects under reasonably anticipated conditions of exposure because the substance:

(i) Has been shown by valid test data to cause serious chronic effects, serious acute effects, or developmentally toxic effects in humans or in at least one species of laboratory animal at dose levels that could be of concern under reasonably anticipated conditions of exposure.

(ii) Is closely analogous, based on toxicologically relevant similarities in molecular structure and physical properties, to another chemical substance that has been shown by valid test data to cause serious chronic effects, serious acute effects, or developmentally toxic effects in humans or in at least one species of laboratory animal at dose levels that could be of concern under reasonably anticipated conditions of exposure, provided that if there is more than one such analogue, the greatest weight will be given to the relevant data for the most appropriate analogues.

(iii) Is known or can reasonably be anticipated, based on valid scientific data or established scientific principles, to be metabolized in humans or transformed in the environment to a substance which may have the potential to cause serious chronic effects, serious acute effects, or developmentally toxic effects under the criteria in paragraph (b) (3)(i) and (ii) of this section.

(iv) Has been shown to potentially cause developmentally toxic effects based on the weight of the evidence in short-term tests indicative of the potential to cause developmentally toxic effects.

(4) The substance may cause significant adverse environmental effects under reasonably anticipated conditions of release because the substance:

(i) Has been shown by valid test data to cause significant adverse environmental effects at dose levels that could be of concern under reasonably anticipated conditions of release.

(ii) Is closely analogous, based on toxicologically relevant similarities in molecular structure and physical properties, to another substance that has been shown by valid test data to cause significant adverse environmental effects at dose levels that could be of concern under reasonably anticipated conditions of release, provided that if there is more than one such analogue, the greatest weight will be given to the relevant data for the most appropriate analogues.

(iii) Has been determined, based on calculations using the substance's physical and chemical properties, to be potentially able to cause significant adverse environmental effects at dose levels that could be of concern under reasonably anticipated conditions of release.

(iv) Is known or can reasonably be anticipated, based on valid scientific data or established scientific principles, to be environmentally transformed to a substance which may have the potential to cause significant adverse environmental effects under the criteria in paragraph (b) (4)(i), (ii), and (iii) of this section.

(5) Concern exists about the health or environmental effects of one or more impurities or byproducts of the

substance because the impurity or byproduct meets one or more of the criteria in paragraph (b) (1) through (4) of this section and either:

(i) The impurity or byproduct is a new chemical substance and may be present in concentrations that could cause adverse health or environmental effects under reasonably anticipated conditions of exposure or release.

(ii) Reasonably anticipated manufacture, processing, or use activities involving the substance for which a premanufacture notice has been submitted may result in significantly increased human exposure to or environmental release of the impurity or byproduct compared to exposure or release levels resulting from existing activities involving the impurity or byproduct.

(c) *Designation of requirements.* (1) When EPA decides to establish significant new use reporting requirements under this section, it may designate as a significant new use one or more of the industrial, commercial, or consumer activities specified under § 721.80 (a) through (i), (l) through (o), and (v) through (y); environmental release activities specified under § 721.85 or § 721.90; or subcategories of these activities. In addition, EPA may designate specific requirements described under Subpart C of this part that are applicable to the substance.

(2) EPA may designate as a significant new use only those activities that (i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified under paragraph (b) of this section.

(d) *Procedures for issuing significant new use rules.* (1) Significant new use requirements designated under this section will be listed in Subpart E of this part. For each substance, Subpart E of this part will identify:

(i) The chemical name.

(ii) The activities designated as significant new uses, which may include one or more of the activities described in paragraph (c) of this section.

(iii) Other specific requirements applicable to the substance.

(2) When EPA determines that a substance is a candidate for a significant new use rule under this section, it will notify the person that submitted the premanufacture notice for the substance no later than 7 calendar days before the expiration of the notice review period under § 720.75 of this chapter. In providing this notice, EPA will describe the health or environmental concerns identified under paragraph (b) of this section and the activities under consideration for designation as significant new uses. Such notice may be by telephone, but in this event will be confirmed in writing no later than 30 days after completion of the notice review period.

(3) **Federal Register** documents issued to propose or establish significant new uses under this section will contain the following:

(i) The chemical identity of the substance or, if its specific identity is claimed confidential, an appropriate generic chemical name and an accession number assigned by EPA.

(ii) The premanufacture notice number.

(iii) The CAS number, where available and not claimed confidential.

(iv) A summary of the basis for action under this section.

(v) Designation of the significant new uses subject to, or proposed to be subject to, notification and any other applicable requirements.

(vi) Any modifications of Subpart A of this part applicable to the specific substance and significant new uses.

(vii) If the **Federal Register** document establishes a final rule, or notifies the public that a final rule will not be issued after public comment has been received, the document will describe comments received and EPA's response.

(4) EPA will issue significant new use rules under this section by one of the following three processes: direct final rulemaking, interim final rulemaking, or notice and comment rulemaking. EPA will use the direct final rulemaking process to issue significant new use rules unless it determines that, in a particular case, one of the other processes is more appropriate.

(i)(A) When EPA uses the direct final rulemaking procedure to issue a significant new use rule it will issue a direct final rule in the final rule section of the **Federal Register** following its decision to develop a significant new use rule under this section for a specific new chemical substance.

(B) The **Federal Register** document will state that, unless written notice is received by EPA within 30 days after the date of publication that someone wishes to submit adverse or critical comments, the SNUR will be effective 60 days from date of publication. The written notice of intent to submit adverse or critical comments should state which SNUR(s) will be the subject of the adverse or critical comments, if several SNURs are established through the direct final rule. If notice is received within 30 days after the date of publication that someone wishes to submit adverse or critical comments, the section(s) of the direct final rule containing the SNUR(s) for which a notice of intent to comment was received will be withdrawn by EPA issuing a document in the final rule section of the **Federal Register**, and EPA will issue a proposed rule in the proposed rule section of the **Federal Register**. The proposed rule will establish a 30-day comment period.

(C) If EPA, having considered any timely comments submitted in response to the proposal, decides to establish notification requirements under this section, EPA will issue a final rule adding the substance to Subpart E of this part and designating the significant new uses subject to notification.

(ii)(A) When EPA uses a notice and comment procedure to issue a significant new use rule, EPA will issue a proposed rule in the **Federal Register** following its decision to develop a significant new use rule under this section for a specific new chemical substance. Persons will be given 30 days to comment on whether EPA should establish notification requirements for the substance under this part.

(B) If EPA, having considered any timely comments, decides to establish notification requirements under this section, EPA will issue a final rule adding the substance to Subpart E of this part and designating the significant new uses subject to notification.

(iii)(A) When EPA uses the interim final rulemaking procedure to issue a significant new use rule, EPA will issue an interim final rule in the final rule section of the **Federal Register** following its decision to develop a significant new use rule for a specific new chemical substance. The document will state EPA's reasons for using the interim final rulemaking procedure.

(*1*) The significant new use rule will take effect on the date of publication.

(*2*) Persons will be given 30 days from the date of publication to submit comments.

(B) An interim final rule issued under this section shall cease to be in effect 180 days after publication unless, within the 180-day period, EPA issues a final rule in the **Federal Register** responding to any written comments received during the 30-day comment period specified in paragraph (d)(4)(iii)(A)(*2*) of this section and promulgating final significant new use notification requirements and other requirements for the substance.

(e) *Schedule for issuing significant new use rules.* (1) EPA will issue a proposed rule, an interim final rule, or a

direct final rule within 270 days of receipt of the notice of commencement under § 720.102 of this chapter for any substance for which the notice of commencement was received on or after October 10, 1989.

(2) If EPA receives adverse or critical comments within the designated comment period following publication of a proposed rule or an interim final rule, EPA will either withdraw the rule or issue a final rule addressing the comments received.

§ 721.185 Limitation or revocation of certain notification requirements.

(a) *Criteria for modification or revocation.* EPA may at any time modify or revoke significant new use notification requirements for a chemical substance which has been added to Subpart E of this part using the procedures under § 721.160 or § 721.170. Such action may be taken under this section if EPA makes one of the following determinations, unless other information shows that the requirements should be retained:

(1) Test data or other information obtained by EPA provide a reasonable basis for concluding that activities designated as significant new uses of the substance will not present an unreasonable risk of injury to human health or the environment.

(2) EPA has promulgated a rule under section 4 or 6 of the Act, or EPA or another agency has taken action under another law for the substance that eliminates the need for significant new use notification under section 5(a)(2) of the Act.

(3) EPA has received significant new use notices for some or all of the activities designated as significant new uses of the substance and, after reviewing such notices, concluded that there is no need to require additional notice from persons who propose to engage in identical or similar activities.

(4) EPA has examined new information, or has reexamined the test data or other information or analysis supporting its decision to add the substance to Subpart E of this part under § 721.170 and has concluded that the substance does not meet the criteria under § 721.170(b).

(5) For a substance added to Subpart E of this part under § 721.160, EPA has examined new information, or has reexamined the test data or other information or analysis supporting its finding under section 5(e)(1)(A)(ii)(I) of the Act, and has concluded that a rational basis no longer exists for the findings that activities involving the substance may present an unreasonable risk of injury to human health or the environment required under section 5(e)(1)(A) of the Act.

(6) For a substance added to Subpart E of this part under § 721.160, certain activities involving the substance have been designated as significant new uses pending the completion of testing, and adequate test data developed in accordance with applicable procedures and criteria have been submitted to EPA.

(b) *Procedures for limitation or revocation.* Modification or revocation of significant new use notification requirements for a substance that has been added to Subpart E of this part using the procedures described under § 721.160 or § 721.170 may occur either at EPA's initiative or in response to a written request.

(1) Any affected person may request modification or revocation of significant new use notification requirements for a substance that has been added to Subpart E of this part using the procedures described in § 721.160 or § 721.170 by writing to the Director of the Office of Toxic Substances and stating the basis for such request. All requests should be sent to the TSCA Document Processing Center (TS-790), Room L-100, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. ATTN: Request to amend significant new use rule. The request must be accompanied by information sufficient to support the request.

(2) The Director of the Office of Toxic Substances will consider the request, make a determination whether to initiate rulemaking to modify the requirements, and notify the requester of that determination by certified letter. If the request is denied, the letter will explain why EPA has concluded that the significant new use notification requirements for that substance should remain in effect.

(3) If EPA concludes that significant new use notification requirements for a substance should be limited or revoked, EPA will propose the changes in the **Federal Register**, briefly describe the grounds for the action, and provide interested parties an opportunity to comment.

[Approved by the Office of Management and Budget under OMB control number 2070-0012]

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